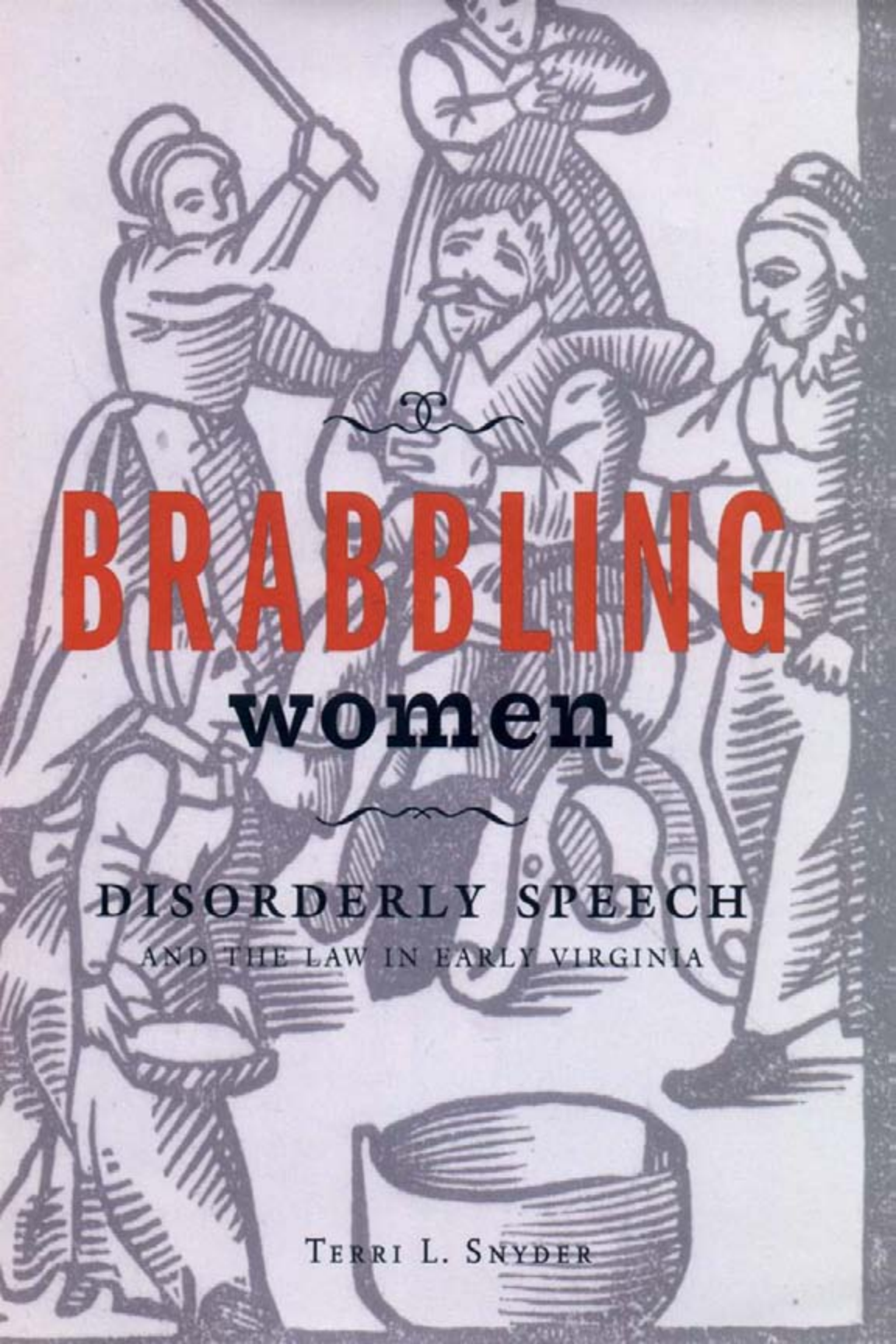

BRABBLING women

DISORDERLY SPEECH AND THE LAW IN EARLY VIRGINIA

TERRI L. SNYDER

VISIT…

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Brabbling Women

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Disorderly Speech and the Law in Early Virginia

Terri L. Snyder

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For my parents

Contents

Acknowledgments ix

Introduction: Brabbling Women in Early Virginia 1

1. Women, Misrule, and Political Culture 19
2. Sexual Stories: Narratives of Consent and Coercion 45
3. Unwifely Speeches and the Authority of Husbands 67
4. Freedom, Dependency, and the Power of Women's Speech 89
5. Widows, Fictive Widows, and the Management of Households 117

Conclusion: Toward the Eighteenth Century 140

Notes 145

Index 179

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Brabbling Women

Introduction: Brabbling Women in Early Virginia

As for myself . . . this is to be my own story.

DANIEL DEFOE,
Moll Flanders (1722)

IN JANUARY 1662, Ann Collins, twenty-one years of age, unfree, and unmarried, stood before the York County, Virginia, court and confessed that she was "gone a Month quicke with child." Such confessions to fornication and out-of-wedlock pregnancy were routine matters in early modern courts in North America and England. Ann Collins's plea, however, was so striking that the court clerk took the unusual, if not downright rare, step of recording it in detail. Her statement not only named Robert Pierce as the father of her child but also offered an explanation for the pregnancy that violated the law. Summoning her powers of speech, Collins declared that she would have "never yielded" to Pierce's "desyres" but had done so only because he had made significant pledges to her, which she recounted quite precisely. Robert Pierce, she swore before the court, had promised to "free me from my master whatsoever it would cost him" and had implied that she would enjoy his very substantial material prospects in "stocke Cattle servants & a plantacon." Collins believed, or wanted the justices to believe, that she had traded sex—frequent sex, as it turns out, for she sometimes took a "bout" with Pierce "8 or 9 times a day"—for freedom and marriage. Pierce was ordered into custody. That act, too, was a routine one, for seventeenth-century justices almost automatically accepted women's assignations of paternity. Through her speech and, more particularly, her narrative of offers made, bargains reached, and consent obtained, Ann Collins framed herself as a wronged party and aimed, with her words, to expose Robert Pierce's shiftiness. In order to clear his name, he would have to live up to the terms he had offered and marry her. That outcome was no doubt exactly what she intended.[1]

The story of Ann Collins illustrates the central aim of this study: to understand the nature and power of women's speech in the politics, courtrooms, and neighborhoods of seventeenth-century Virginia. The title of this book is taken from a statute enacted by Virginia's House of Burgesses in 1662 that attempted to solve the problems caused by unruly female voices in the colony. The law, "Women causing scandalous suites to be ducked," sympathized with Virginia's "poore husbands" who were "often brought into" costly and "vexatious" defamation suits because their "brabling" wives slandered and scandalized their neighbors. It stipulated that in future suits husbands could choose either to pay damages or have their troublesome wives publicly ducked.[2] In early modern British parlance, *brabbling* signified a wrangling, quibbling, quarrelsome, or riotous disposition. It was not an expressly gendered term, but Virginia's lawmakers chose to inflect it as such both in the text of the law and the punishment it prescribed. That it was even written and enacted suggests tensions over ungoverned female speech and, by extension, anxieties over reversals in traditional patterns of household authority: "poore" husbands, indeed, mastered by their brabbling wives. In response to the danger that women's words might compromise patriarchal authority, lawmakers shored up the dominion of husbands over their wives. The statute's stiff penalties reflect their drive to prevent women, and women's speech, from exacerbating weaknesses in the domestic and public politics of early Virginia.[3]

At its simplest level, a woman employed brabbling speech in an effort to gain leverage in her dealings with all manner of early colonial authorities, ranging from political and legal officials to lovers, husbands, masters, and neighbors.[4] By focusing closely on episodes of women's speech, disorderly and otherwise, we can trace the intricacies of their struggles to empower themselves amid the changing sea of inequalities that existed in early Virginia, particularly after mid-century. Most of these women, who appear as masters, servants, and slaves, as widows and wives, and as neighbors and subjects, were British in origin or ancestry. Relative to their white counterparts, the voices of free and unfree African or Native Virginian women rarely survive in seventeenth-century legal documents; but even as the most marginalized of British subjects, they form part of the basis for this study. All of these brabbling women were active in many venues in early Virginia. On Virginia's political stage, much to the consternation of the colony's leadership, women raised their voices—and their

hoes—in acts of civil disobedience. Officials as high ranking as colonial governor Sir William Berkeley lamented the power of one woman to set "hundreds" against him. In courtrooms and neighborhoods as well, the speeches of free and unfree women policed boundaries of sexuality and marriage, asserted their freedom and autonomy, and resisted legal and patriarchal authority. Legal officials faced women who refused to submit to their orders; neighbors of all ranks and both sexes complained that women's speeches threatened to "undoe" them; and masters, both male and female, found themselves reproached by the words of their unfree women.

If a variety of Virginia's women took liberties with their speech, they did so at a risk. Regardless of whether women's words achieved their desired ends, their ungoverned tongues challenged assumptions that undergirded traditional political and domestic authority and, in particular, emergent ideas of mastery in the seventeenth century. Under patriarchal models prevailing in England and adopted by Virginians, the hierarchy of the household was understood to parallel that of the state. Just as the Crown was sovereign over its subjects, so, too, were husbands and masters governors of their households. For most of the seventeenth century, Virginia's burgesses labored to enact this vision by creating laws that sustained and enlarged mastery: statutes augmented the authority of husbands, institutionalized racial slavery, and granted extensive powers to slaveholders. When women's utterances resisted these hierarchies, their speech constituted a political act, a blow to mastery as well as to the king's peace.[5] And in response to women's ungoverned tongues, governors complained, free men litigated, and masters brutalized. A brabbling woman might find vindication through her narrative agency; but regardless of her rank, success was not guaranteed.

When women and men arrived in seventeenth-century Virginia, they entered a world far different from that of England or other North American colonies. Virginia was unique for several reasons, such as its poor replication of British household relations, its heavy reliance on unfree labor, and its sustained political dislocations. The colony's high mortality rate and its largely male and mostly unfree population, for instance, made the perpetuation of stable Anglo-Virginian households difficult and those of African Virginians nearly impossible. Indentured servitude dominated labor practices until about 1680, when Chesapeake planters turned increasingly toward reliance on African American slaves and built the legal institution of slavery. The inabil-

ity to replicate English households made the Chesapeake, as Mary Beth Norton has termed it, a "de facto Lockean" society where planters had greater dominion over their property and dependents. Virginia's households not only differed sharply in composition from those of New England and England, but they were also largely free from the official scrutiny of churchwardens, magistrates, and grand jurymen.[6]

Labor practices also had an impact on both white and black women who arrived on Virginia's shores. Like their male counterparts, indentured women contracted their labor for terms of five to seven years, with no family or relatives to ensure that the terms of their contracts were fulfilled, to aid them from overzealous masters, or to broker their marriages. If they survived, white women could benefit from serial widowhood, giving them the advantage of economic mobility and bestowing on Virginia a reputation for a lively marriage market. As a result, as Lois Green Carr and Lorena S. Walsh have argued, these women were less protected but also "more independent and powerful" than their counterparts in North America and the British Isles.[7] Determining the extent to which they welcomed such independence is a thornier issue. Black women arrived in Virginia as slaves—also devoid of their families—and their status remained somewhat fluid over the course of the seventeenth century. Some found it possible to escape slavery legally or have their freedom purchased, acts that became increasingly unlikely by the turn of the century. Few had the opportunity to form free families or, when they did so, ensure future protection for their children.

The political instabilities of seventeenth-century Virginia, both public and domestic, also shaped the experiences of the women who emigrated to the colony. Relations between empowered individuals—planters, justices, and governors—were often strained, and dissent from unfree laborers was a sustained feature of Virginia's early history.[8] On the public front, Virginia's leaders faced two open and serious challenges to their authority from their own colonists. The first came in Bacon's Rebellion (1676) in which rebels burned Jamestown, offered freedom to servants and slaves who joined them, and successfully kept the governor's forces at bay for more than six months. The second was the Tobacco Cutting Riots (1682) in which small and large planters alike, angry over the governor's unresponsiveness to plummeting tobacco prices, rioted in the fields and destroyed crops. On the domestic front, unfree laborers, both indentured servants and slaves, wore their status uneasily, resorting to violent outbursts, running

away, work slowdowns, and sometimes even joint insurrection. Not all planters were temperate, and most were unregulated: servants and slaves often had good reason to bristle at their treatment. Compared to their counterparts in England and other North American colonies, they were worse off.[9]

The evolution of racial slavery and the political and domestic insurrections that punctuated the colony after midcentury also transformed understandings of gender in early Virginia. Kathleen M. Brown's sweeping study of the colony traces a crucial shift in cultural categories of gender, race, and class. In particular, she demonstrates the centrality of gender to the development of the legal apparatus of slavery and the politics of racial difference. Over the course of the colonial period, slavery came to depend on the condition of the mother, interracial marriage was proscribed, and the labor of women differed sharply on the basis of race. Hence, definitions of femininity became intensely racialized, and dominant notions of black and white femininity diverged to the debasement of African Americans. Black women and men were considered to be capable of strenuous physical labor; they were thought to be passionate and naturally suited to slavery. At the same time, ideas of white masculinity came increasingly to depend upon mastery, sexual prowess, and genteel patriarchy as embodied by men such as William Byrd II, while white womanhood increasingly depended on domesticity, the private power of gossip, and displays of fashion, learning, and material culture. These developments in race and gender relations had profound impacts on the experience of Virginia's women.[10]

It was during this era of change in labor, race, and gender relations that women's voices most mattered to Virginia's political leaders, legal authorities, masters, and neighbors and that their attempts to empower themselves through their speeches and their stories became most evident. Precisely when Virginians were so tender about their dominion, both politically and domestically, the agency of women's speech and the threat of brabbling women posed the greatest danger. In order to best understand the nature of women's power and the response it engendered, we need to examine women's speech: not just their words but the political, social, and legal contexts that shaped them. Under what circumstances might a woman in seventeenth-century Virginia use her powers of speech to contest the authority of a master, a magistrate, a husband, a neighbor, or even the government? Alternatively, what narrative and legal strategies might she employ if

she sought to enlist these authorities as allies? What forms would these acts take? How would they look, or, more accurately, what would they sound like to early Virginians?[11] Finally, what might be gained by the women who engaged verbally in such contests and attempted to invert household authority and, by extension, patriarchal practices? Women's stories allow us to understand how they brokered their constraints and attempted to seize power for themselves. These stories of individual women help us to see more distinctly the nature of women's relationships to structures of authority in the politics, the law, and the households of early Virginia.

To comprehend these relationships fully, we need to carefully consider the legalities that governed the lives of seventeenth-century Virginians. For the most part, women's voices emanate from judicial settings and legal documents, and the law significantly shaped women's words. Moreover, Virginia's courts were arguably the most powerful agents in the seventeenth century. Unlike New England, where courts held sway along with the pulpit, in Virginia the law and, in particular, the local county courts were the key institutions that enforced and interpreted not only prevailing notions of women's speech but gender roles as well. Virginia's county courts typically convened monthly and, like their English counterparts, were forums for litigation over debt, slander, and trespass; legalizing indentures or penalizing unruly servants and overzealous masters; and probating wills and filing inventories. Local courts did not try crimes "touching life or member" unless they were committed by slaves, who, beginning in 1692, were tried in county courts of oyer and terminer.[12] Aside from legal business, court days were venues for both men and women to trade in wares, gossip at the courthouse steps, or raise a glass or two in the nearby ordinary.

Central to early American legal culture were the individuals who constituted the local legal fraternity.[13] In Virginia as elsewhere in early North America and England, these men were influential players in county politics and played a considerable role in propelling Virginia's women through the county courts. Justices, grand and petit jurymen, churchwardens, clerks, constables, and sheriffs determined *when* a woman's story would reach the court, *how* that speech would be recorded, and *if* that speech would be deemed credible or disorderly. In a sense, these legal actors were gatekeepers to county litigation who decided which complaints might be heard at court as well as how they might be punished. In Virginia, the local legal fraternity played a key

role in silencing women's complaints; and as we shall see, only the most brabbling women gained the attention of this elite group.

The nature of seventeenth-century legal evidence—particularly the documents from which women's voices arise—also governed the words of women as we hear them. The records of early Virginia's courts provide an extraordinary glimpse into the lives of the individuals who peopled the colony. In early America, as Cornelia Hughes Dayton has argued, women as well as men spoke through "court records more openly than through almost any other set of documents."[14] Yet those records must be considered carefully. Few colonial court records are perfect transcriptions in any modern sense. Slander writs may capture fragments of verbatim speech, but most early modern legal documents are reconstructed testimonies of witnesses. Clerks made errors and compressed details.[15] We must also be mindful of the forms of evidence. Depositions, petitions, declarations, and *viva voce* testimony, for instance, reveal not simply the substance of women's brabbling speech but also its location and audience. All constitute evidence, but their different legal forms carry particular meanings under the law. Moreover, in Virginia, as elsewhere in early American courts, legal testimony by ordinary men and women, some unfree and most illiterate, was given at the command of powerful county justices and recorded by clerks under circumstances likely to inspire deference and awe.[16] These legalities necessarily shape our view of Virginia's disorderly women.

In order to apprehend women's attempts to negotiate patriarchal practices that disadvantaged them, I rely here on historical methodologies that allow me to position women's voices at the center of this study. Models from microhistory suggest that a close textual analysis of women's speech brings into sharp relief the ways in which the transformations underway in seventeenth-century Virginia played out in the daily lives of ordinary women and men. By resurrecting the minute details of the words of a variety of women, free and unfree, single, married, and widowed, upper, middling, and lower classes, black and white, I am better able to explore how these various women exercised power through forms of speech and the resistance they faced when they did so. This puts a distinctly human face on women's experiences and, more particularly, their relationships to structures of authority in the politics, courts, and homes of early colonial Tidewater Virginia. The intricacies of the power struggles between husbands and wives, masters and unfree laborers, and governors and subjects

are, in themselves, meaningful. Attending to the words and struggles of ordinary individuals, interesting as they are, tells us not simply about their particular experiences but also reveals the social and cultural dynamics at work in everyday lives of men and women in the seventeenth-century Chesapeake.[17] Such an approach allows me to study both women and the dynamics of gender relations.

Brabbling women are better heard when one listens intently to a particular locality. I have relied upon selected cases from the York County court, a jurisdiction with extensive records by colonial Virginia standards.[18] In the interests of capturing the voices of slave and free African and Native Virginian women however, I have occasionally ventured beyond the seventeenth century and outside of York County. A variety of women were active participants as plaintiffs and defendants in both civil and criminal court proceedings throughout colonial British North America. Yet in York, as elsewhere in Virginia, local courts were not likely to record the minute details of cases and often only verdicts and judgments survive. The cases explored in this book were exceptional in generating a greater volume of evidence than did most of those heard in the local courts. Their distinctiveness is their virtue, for they allow me to better apprehend the narrative and legal strategies employed by a range of women in seventeenth-century Virginia who sought to empower themselves—or fight the power of others—in various ways.

York is a superior vantage point for other reasons as well. It was one of the original counties formed when the English settled Virginia and, by the mid-seventeenth century, had established its modern dimensions.[19] England's early interest in York is explained by the county's geography. York hugs the northern coastline of a peninsula bounded by the York and James rivers. (see fig. 1) Running about twenty-six miles long and lying between two tidal rivers, York is riddled with low-lying areas and creeks—Felgate's, Archer's Hope, Skiff's—named by the English who settled nearby and used them to transport tobacco to the main rivers. Other place names, such as Pamunkey, Chiskiack, or Chickahominy, derived from the Indian tribes who preceded the English and were, for the most part, displaced by the tobacco culture the settlers created.

By the mid-seventeenth century, York began a fateful evolution. Sitting in the second most populous region of the colonial Tidewater, the county initially attracted a mix of residents, most of whom were unfree men who arrived as indentured servants. Others, fleeing cavaliers

and the younger sons of English gentry, came to make their fortunes and, as the largest landowners, to become county leaders. Over the course of the seventeenth century, the county gained population, reaching nearly 1,900 by the century's end.[20] Growth was largely due to the immigration of overwhelmingly male, indentured servants from the British Isles, at a ratio of about four men to one woman, and the forced importation of slaves from the Caribbean.[21] By the last quarter of the seventeenth century, the composition of York's population changed precipitously as increasing numbers of slaves were imported to the county. Meaningful statistics provide a shorthand measure of this evolution: one-third of York's unfree workers were slaves in the 1670s; by the 1690s, slaves accounted for nineteen out of twenty unfree laborers; and by the mid-eighteenth century, fully 50 percent of York's population was enslaved.[22] In the words of Ira Berlin,

Figure 1 *Virginia*, ca. 1775, by Richard J. Stinely. From *The Transformation of Virginia, 1740–1760* by Rhys Isaac. Copyright (c) 1982 by the University of North Carolina Press. Published for the Omohundro Institute of Early American History and Culture. Used by permission of the publisher.

York was in transition from a society with slaves to a slave society wherein a reliance on slave labor shaped all other social relations in the colony.[23] This transition was not easy; slave and servant resistance as well as planter discontent punctured any illusions of stability.

Studying brabbling women and the legalities that governed their lives in seventeenth-century Virginia opens a window into a world shattered by profound social changes and conflicts over gender roles and race relations. In order to best understand this culture, this book focuses on what Virginians themselves identified as both larger political crises and smaller domestic conflicts that occurred after the mid-seventeenth century. Rebellion and riot periodically convulsed the colony, and women actively participated in a variety of ways. Their presence was marked as a meaningful index of disorder and measured the extent of political instability. On a local level, women struggled with sexual and marital relations and battled over matters of mastery, freedom, and household governance. Whether they were active in the politics of the colony, the county, or the household, however, a variety of women used disorderly speech to empower themselves, discredit others, and master their betters.[24] Admittedly, the words of most of the women—and men—who lived in seventeenth-century Virginia have not survived. This is a critically important clue to those words that do surface: specific words and recollections were remembered and recorded in what must have been the least quotidian of circumstances. It is precisely this deviance that allows us to understand not only the power of disorderly female speech but also how officials used its occasion to reinforce the boundaries of acceptable cultural practices.

Of course, brabbling women did not originate in Virginia, although the colony was, to my knowledge, unique in adopting a statute that singled out such women for particular censure. There is a transatlantic context to the stories of women presented here: the law came from England, models of patriarchal governance came from England, and so did the trope of the disorderly woman. While the law is an obvious point of comparison, another important and rich source for this study is print culture, which offers a different kind of window into the culture of seventeenth-century Virginians. Unruly women were familiar figures in early modern print culture, common emblems of domestic and political instability found in ballads, broadside verse, criminal narratives, plays, and early novels. Popular printed materials reflected

deep anxieties over women's power, reciting the adventures of scolds and gossips and cementing perceptions that women's verbal disorder measured their sexual voraciousness and transgression of class hierarchies. Outspoken women, cross-dressing women, and women who refused to obey husbands, fathers, or masters implicitly assumed male roles, brandished male power, and signaled female misrule to an early modern audience. Such women were feared as both powerful and subversive cultural agents.[25]

Virginians, regardless of their literacy, were familiar with these tropes. The eighteenth-century commonplace book of William Byrd II, a private document written by an elite planter, is replete with misogynistic memorabilia on the power of unfettered women. Yet even in the seventeenth century, ballad lyrics memorialized Virginia's unruly women, likening the colony to a repository for England's female castoffs:

> Beware ye scolding wives
> If no fair means shall win ye,
> Lest that your husbands you entrap
> And send you to Virginny.[26]

Or, alternatively:

> The Turn'ball whores cry they are undone,
> And must to Virginia pack one by one,
> And in truth they'l inrich that beggerly nation,
> For never such planters came to a plantation.[27]

Virginia's women, brabbling or not, intrigued English writers who in turn memorialized them in print. Two literary representations of unruly women in early Virginia bear further investigation. These fictional women, like historical Virginians, reflect cultural attitudes toward women's autonomy and sexuality and illustrate the liminal status of real and fictive widows in early Virginia. The outlandish and outspoken Widow Ranter, the central character of Aphra Behn's play *The Widow Ranter; or the History of Bacon in Virginia* (ca. 1690), arrives in Virginia as an indentured servant, marries her master, survives him, and inherits his plantation.[28] The criminal but seemingly repentant Moll Flanders of Daniel Defoe's *The Fortunes and Misfortunes of the Famous Moll Flanders* (1722) disembarks twice in Virginia, first as an unwitting wife to her half-brother and second as a wife and a transported criminal who ultimately prospers in the colony.[29] (see

THE

Widdow Ranter

OR,

The HISTORY of

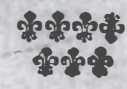
Bacon in Virginia.

A

TRAGI-COMEDY,

Acted by their Majesties Servants.

Written by Mrs. *A. Behn.*



LONDON, Printed for *James Knapton* at the Crown in St. *Paul*'s Church-Yard. 1690.

Figure 2 *The Widdow Ranter; Or the History of Bacon in Virginia,* 1690. This item is reproduced by permission of The Huntington Library, San Marino, California.

THE

FORTUNES

AND

MISFORTUNES

Of the FAMOUS

Moll Flanders, &c.

Who was Born in NEWGATE, and during a Life of continu'd Variety for Threescore Years, besides her Childhood, was Twelve Year a *Whore*, five times a *Wife* (whereof once to her own Brother) Twelve Year a *Thief*, Eight Year a Transported *Felon* in *Virginia*, at last grew *Rich*, liv'd *Honest*, and died a *Penitent*.

Written from her own MEMORANDUMS.

LONDON: Printed for, and Sold by W. CHETWOOD, at *Cato's-Head*, in *Russel-street*, *Covent-Garden*; and T. EDLING, at the *Prince's-Arms*, over-against *Exeter-Change* in the *Strand*. MDDCXXI.

Figure 3 *The Fortunes and Misfortunes of the Famous Moll Flanders*, 1721. This item is reproduced by permission of The Huntington Library, San Marino, California.

figs. 2 and 3) As indices of narrative agency, the strongly independent voices of both women intersect with real women in Virginia.

In particular, both texts depict women who, through very different models of powerful speech, challenged traditional patterns of patriarchal authority. Both women are brabbling speakers. The Widow Ranter's ungoverned tongue, strong sexual appetite, and autonomous position as a widow—a combination that a seventeenth-century audience would easily conflate—illustrate the dangers of a woman without male governance.[30] "Ranter" signifies her as a "roistering woman" and allies her with an early modern radical religious sect suspected of myriad licentious practices.[31] Perched on the outer banks of femininity, she swears, argues, drinks, smokes, cross-dresses, and fences. She is, in the words of one scholar, the "epitome of seventeenth-century unwomanly behavior."[32] Moll Flanders illustrates a very different model of narrative strategy. In explaining the course of her life, Defoe's heroine assumes an air of apology and repentance.[33] Yet, while her voice itself is penitent, nearly all of the elements of her confession exemplify female misrule. In tracing her ascent from Newgate orphan to Virginia planter, she recounts numerous sexual, marital, and criminal exploits that signify disorder. Her "fortunes and misfortunes" chronicle her attempts to control her destiny by all means available. Her voice may be laced with feminine submission, but that stance is itself belied by the undeniably subversive story that she relates.

Both heroines tell stories that reflect their drive to transgress boundaries of gender and class that most concerned Virginians in their attempts to buttress mastery. Because the Widow Ranter was not bred to understand the proper use of her undeserved income, money corrupts her or, as she says, makes her an "Infidel" and allows her to frankly pursue illicit pleasures.[34] Without anyone to regulate her, she is an intemperate and dissipated master; and most of her time is spent shamelessly insulting her English servants, whom she addresses in vulgar epithets ("dog," "rogue," "baboon"), drinking prodigious amounts of punch, and pursuing Colonel Dareing. Moll Flanders protests the restrictions that limit her control over property. She learns, much like Defoe's other heroine, *Roxanna* (1724), that "the very nature of the marriage-contract was, in short, nothing but giving up liberty, estate, authority, and everything to the man."[35] She makes each of her five marriages with the instincts of a financier, lying and dissembling when necessary. Despite her penitent stance, Moll offers no apologies. Her narrative is more exactly an extended critique of the

legal and cultural disabilities of her sex, softened by pretenses of atonement and remorse.[36] Moll Flanders, too, assumes a male role and cross-dresses in order to permeate the boundary between male and female.[37]

At the conclusion of their stories, both the Widow Ranter and Moll Flanders implicitly resume traditional gender roles and, at the same time, successfully negotiate patriarchal practices. By setting the play in Virginia during Bacon's Rebellion, Aphra Behn links political instability with the domestic dislocations embodied by the ungoverned widow's verbal, financial, and sexual agency.[38] The Widow Ranter disguises herself as a soldier and enters the battlefield. When her identity is discovered, her paramour declares that he likes her better in "breeches" than in "petticoats" and marries her.[39] Moreover, there is a racial dimension to the story, for the immodest speeches of the Widow Ranter starkly contrast with those of the idealized "Indian Queen," Sermernia, Bacon's paramour.[40] She is the most marginalized and ideal female who possesses the largest share of civility allotted to any woman in the play and has, as she declares, absolutely no "*Amazonian* fire" about her.[41] Trapped in an arranged marriage, she does not rebel against her fate, remaining virtuous and submissive; and in the end, she dies for it. Meanwhile, the disorderly English women survive, the rebellion ends, and so does their domestic turmoil. In contrast to Sermernia's complacency and her unwillingness to act on her desire, the Widow Ranter's disorder and agency obtain for her, in the end, the desired results. To a certain extent, Moll Flanders measures the distance between the seventeenth century and the eighteenth. She becomes a deputy husband in Virginia, where she receives an inheritance from her mother; purchases land, servants, and provisions; and, at least in her own eyes, achieves the status and voice of a gentlewoman. Moll is careful to let us know that she is a paternalistic master, providing more than adequate provisions for her servants and slaves. Yet because her husband was "bred a Gentleman" who would "much rather go into the Woods with his Gun . . . than attend the natural Business of his Plantation," she alone is responsible for bringing the produce of her plantation to "such a pitch" as £300 annually.[42] Despite her sexual agency, calculating marriages, and criminal past, in Virginia she has been rehabilitated from disorderly woman to genteel master. At the same time, she had the independence that she has sought all of her life.

The fortunes of British women in seventeenth-century Virginia

were hardly as ideal as those represented by Aphra Behn and Daniel Defoe. Yet as models of female agency, they share remarkable similarities in their attempts to empower themselves. The crises that consumed the lives of the fictional Virginia heroines were also those that troubled the colony's free and unfree women: political turmoil, sexual agency, marital control, servitude, and mastery. Neighbors, masters, and political and legal authorities wrestled with the narrative agency of ordinary women and the specter of disorderly women. Like the heroines of drama and fiction, women in Virginia were able to negotiate patriarchal practices.

Like those of the Widow Ranter and Moll Flanders, women's voices came into sharp relief in response to the instabilities of patriarchal authority in seventeenth-century Virginia. In the political realm, both onlookers and officials feared the power of female misrule and female voices. During Bacon's Rebellion, women were blamed for exercising undue influence over the principal political actors. Such accusations reflected real anxieties about women's infiltration of the political arena, regardless of whether those women, like Lady Frances Berkeley, the governor's wife, had typically been allowed a degree of political influence behind the scenes or whether they were less elite women who took public, political action. After Bacon's Rebellion, Virginia's leaders attempted to quell their anxieties about female misrule. They did so by building on the 1662 statute on brabbling women; in 1677 a new law took aim at wives who chose to enter the political sphere and use words recklessly.[43] Women might choose to raise disorderly voices, but the burgesses attempted to quell that threat by mandating that women would be expressly punished for doing so.

Brabbling women, both in print and in practice, illustrate the varieties of female agency in seventeenth-century Virginia and, on a cultural level, reflect the substantial threat women posed to the structures of political and domestic patriarchy. The crises investigated here feature women who challenged both the doctrine of coverture and the practice of mastery: women who entered the political sphere, wives who breached the authority of their husbands, indentured servants who questioned the dominion of their masters, slaves who sought their freedom, and free black women and widows who sought the assistance of the court in governing and protecting their households. Under coverture the legal identity of a wife was subsumed by her husband. She could not act as an independent agent before the law: without her husband, a wife could not make contracts, litigate suits,

secure her wages, and or convey property.[44] At the same time, the customary and legal practices of mastery attempted to elevate the position of free men in Virginia's fledgling colonial households and neighborhoods, giving them extensive powers over their household dependents. In a colony intent on shoring up mastery, assertions of political, legal, and domestic authority over women were of critical importance. Yet these declarations did not always have the desired outcome: given the right strategies, women in seventeenth-century Virginia—even unfree women—could prevail.

The central concern of this book, then, is to analyze the cultural work of brabbling women in seventeenth-century Virginia by exploring the contests over women's words, the ways in which a variety of free and unfree women challenged and negotiated political and domestic structures of authority, and the resistance or success they encountered in doing so. Through words, women challenged the dominion of husbands, masters, neighbors, and occasionally even local legal officials and gentry leaders. Through words, women resisted the legal practices that disadvantaged them in legal suits over sexual coercion. Wives vocally protested and policed their marriages. Servants and slaves, both of British and African origins, took verbal aim at masters and servitude. Widows, an anomalous group of women, added their own distinctive complaints to this cacophony of women's voices, using legal officials and legal forums to repel threats to their position as heads of households.

Of course, not all of the women discussed in this study were successful in convincing legal authorities of the truth of their stories or finding legal redress for their grievances. Still, their struggles reveal both the power of words rightly deployed, the nature of their agency, and the limits of their remedies. Elite women such as Lady Frances Berkeley entered the political fray, but even their rank could not protect them from critical appraisals. Widows such as Mary Butts raised sticks along with their speech to assert their domestic authority over laborers, while others, such as Elisheba Vaulx, chose supplication and compromise to resolve conflicts with their household dependants. Free black women, such as Jane Webb, enlisted the court to protect their children. Servants such as Elizabeth Cole discredited their masters, and slaves such as Mary Aggie sought their freedom. At the extreme, women such as Joanna Delony imagined posing as men in order to seek revenge. Like their fictional counterparts, the brabbling women studied here reveal the ways in which, even in a society in-

creasingly dominated by practices of mastery, women summoned considerable powers of speech in an effort to penetrate the structures of patriarchal authority and legal convention that governed their lives. Successful or not, like Moll Flanders at the very least they took the opportunity to tell their own stories.

1 Women, Misrule, and Political Culture

Now mark the late tragedy: Old Governor Barkly, altered by marrying a young wyff, from his wonted publicq good, to a covetous fools age.

"Complaint from Heaven with a Huy
and crye and a petition out of
Virginia and Maryland" (1676)

LADY FRANCES BERKELEY, the wife of Virginia's governor, Sir William Berkeley, was as much involved in Virginia's politics as her husband was. During Bacon's Rebellion in 1676, she bandied words with the rebel himself, Nathaniel Bacon, Jr., as well as volleyed taunts and jeers with his followers. She sailed to England in June 1676 as her husband's emissary to the Crown and successfully petitioned the Privy Council for soldiers to put down the revolt. She returned to Virginia in February 1677, accompanied by three shiploads of troops and Sir Herbert Jeffreys, who subsequently both succeeded her husband as lieutenant governor and grew to seriously dislike Lady Berkeley for the power she wielded in colonial politics. She insulted the commissioners sent by the England's Charles II to investigate the rebellion; yet when a commissioner asked her to do so, she helped to obtain a pardon for one of the rebels. Little wonder that she was both admired and feared: Lady Berkeley was an outspoken woman who had no qualms about attempting to broker the political crises that she witnessed in seventeenth-century Virginia.[1]

This was not exactly the role everyone envisioned for the governor's wife. In 1650, one young woman, Virginia Ferrar, whose family had significant interests in the colony, wrote that the wife of Virginia's governor ought to be "an instrument of welfare" for the colony. Ferrar conceived of Lady Berkeley (by which she meant not Frances Berkeley in particular but any woman married to Sir William) as one of a succession of politically powerful women who had contributed to Vir-

ginia's development. These included Queen Isabella, who, although "slighted by the Kings of England and Spain," was the means to Virginia's discovery, and Queen Elizabeth, who, following Isabella's "heroic lead," encouraged its settlement. "Discovered by the means of one woman, planted by the commands of another," in Ferrar's eyes, Lady Berkeley was now to assume her place among the women who were instrumental in the founding and colonization of Virginia.[2]

For many of her contemporaries, however, Lady Berkeley was a paragon of female misrule. According to the Maryland petitioners cited in this chapter's epigraph, Lady Frances Berkeley did not in any way fit into this illustrious sequence of female heroism. Instead, she corrupted her husband away from his sensible approach to governance: under her influence, he became greedy, reckless, and tyrannical. Other individuals and officials who observed and wrote about Virginia's political instabilities, particularly Bacon's Rebellion (1676) and, to a lesser extent, the Tobacco Cutting Riots (1682), also blamed disorderly women for destabilizing civil and domestic society. Women, of course, were not the only source of anxiety for Virginia's leaders. Narratives of female misrule fit into a virtual constellation of instabilities that threatened Virginia's leadership. Insurgency seethed from many quarters: Quakers gained converts; indentured servants and slaves plotted revolts; large planters challenged the governor's policies; small planters destroyed their crops; and the tributary Pamunkey Native Americans were not always as cooperative as the English would have liked them to be.

Female misrule and, in particular, the brabbling speeches of women were persistent elements in the political conflicts that engulfed seventeenth-century Virginia. To a certain extent, the perception of disorderly women was a reflection of actual women who involved themselves on all sides of civil discord. Lady Frances Berkeley, as well as Sarah Drummond and Lydia Chisman, whose husbands were hung for their treason, Sarah Grendon, and even Cockacoeske, the leader of the Pamunkey Indians, all received commentary from the pens of those observing the rebellion. Both loyalists and rebels in Bacon's Rebellion fastened explicitly on selected women who were powerful enough, or claimed to be powerful enough, to influence and direct the political sensibilities of men. These women were named, their offenses catalogued, and their reprisals, if any, carefully described. Other lower-ranking women, including possibly female slaves and servants,

were not explicitly named; but officials nonetheless specifically marked the presence of women who joined the noisy and riotous mobs that constituted the rabble.

While accounts of Virginia's political troubles focused on brabbling speech and disorderly women, they also employed metaphors of domestic instability to measure the damage done by the rebellion to the social and political fabric of Virginia. One of the most favored ways to illustrate the rebellion's impact was to argue that it fissured domestic life. For instance, not the least of the rebel Bacon's crimes was the "unhappy separation" that his "mischief" had caused between the governor and his "incomparable wife," Lady Berkeley, when she traveled to England to plead with the Crown for troops.[3] Evidently, their domestic relations still suffered after her return to Virginia, for Governor Berkeley, apparently exhausted from the rebellion, wrote the royal commissioners a letter with two curious postscripts. The first noted that he wrote from his bed, expecting his "feavor," and the second explained that while Lady Frances "lay by mee last night . . . God Helpe us nothing but vocal kindnesse past betweene us."[4] Sheer "vocal kindnesse" was indicative of a meager restoration of domestic harmony: the breakdown in intimate relations was in itself, wittingly or no, an appraisal of the rebellion's ability to disrupt private life.

Taken together, women's voices on both sides of the rebellion, narratives of brabbling speech and female misrule, and metaphors of domestic instability did more than measure breakdown. They shaped legal practices. In 1662, 1677, and 1699, lawmakers responded to the power of women's voices in Virginia's politics by writing statutes that directly sought to rehabilitate husbands' authority over their wives by constraining female speech in the domestic realm and formally outlaw women's voices in the political realm. The presence of disorderly women suggested that a lack of traditional authority and an imperfect translation of patriarchal practices led to civil and domestic disorder; they were in effect arguments that legitimized more authoritarian legal practices toward not only women but also servants and especially slaves. During Virginia's crises, a variety of accounts focused on the power of women's voices to move an already unhappy body politic further down the road toward civil revolt and outright rebellion. In doing so, they aimed not only to constrain Virginia's brabbling women from politics but also to rehabilitate patriarchal authority in the domestic realm.

> *Seeing the infinite mischiefs and calamities such foolish opinions brought the country to, I did think it time to unravell this thread by giving an account that came to me without inquiry.*
>
> LADY FRANCES BERKELEY
> (ca. 1676)

Frances Culpeper Stephens Berkeley Ludwell, or Lady Berkeley as she was known from the time of her marriage to Virginia governor Sir William Berkeley in 1670 until her death, was not the only politically active woman in seventeenth-century Virginia, but she was undoubtedly the most notorious. (see fig. 4) Both loyalists and rebels on both sides of Bacon's Rebellion in 1676 and Virginia's political leaders thereafter wrote venomously of her. Like other politically active women in Virginia, she was ardent, outspoken, and seemingly unafraid of reprisals. She differed from most women, however, by virtue of her rank: she was, for all practical purposes and however unofficially, an emissary and aide to her husband. Together, the Berkeleys were the representatives of colonial authority and colonial policy, and Lady Berkeley's actions spoke as loudly as the governor's in the official realm of politics. Loved, feared, reviled, and memorialized, Lady Frances Berkeley was easily one of the most powerful and influential women in seventeenth-century Virginia, one whose story illustrates the instabilities of the boundaries separating the worlds of men and women, domesticity and politics.

Clearly, Lady Berkeley's family connections bolstered her influence. Born in 1634 in England to Thomas and Katherine Culpeper, she was a member of a family active in Virginia affairs. Her father was a member of the Virginia Company and a royalist who lost "life, liberty and estate" in the service of Charles I. In 1650, the remainder of his family, including Frances, emigrated to Virginia.[5] Other relatives held colonial connections through official appointments or as investors or merchants. Her cousin, Thomas Lord Culpeper, baron of Thoresway, served on the council for foreign plantations, providing advice to the Privy Council on colonial affairs; he was also appointed governor of Virginia.[6] Alexander Culpeper, her brother, was commissioned surveyor general of Virginia in 1671; and, probably in part through her influence, he remained in this post until 1694.[7] Other cousins included Nathaniel Bacon, Jr., the rebel, and Mary Horsmanden, who married Samuel Filmer and, after his death, William Byrd I. When she arrived

Figure 4 *Lady Frances Berkeley*, Unknown artist, ca. 1660. Courtesy of the Museum of Early Southern Decorative Arts; Winston-Salem, N.C.

in Virginia in 1650 at the age of sixteen, Frances Culpeper was already a woman of high standing in the colony.

In addition to her family connections, Lady Berkeley's influence was reinforced and increased by three extremely well made marriages. By the time of Bacon's Rebellion she had married two colonial leaders, both governors. Her first marriage in 1652, at the age of eighteen, was to Samuel Stephens, second governor of Carolina. His death in 1670 left her in possession of 1,350 acres of land. In 1671, she made an even better bargain with her second marriage to Sir William Berkeley: not only was he already the governor of an established colony, but by the marriage articles she received estates in England worth £600 annually.[8] After Berkeley's death in 1677 she married Philip Ludwell, whose power had been rivaled by only the governor himself and whose influence in the colony was probably buttressed by his marriage to Lady Berkeley.[9] She appears never to have borne children.

Lady Berkeley's family, royal connections, and marriages sanctioned her foray into Virginia's politics and nurtured her sometimes eccentric but ultimately shrewd political sense. Given her unofficial status as advisor to the governor, she could speak her mind: her rank and her sex protected her from legal, official, or honor-based reprisals. She deeply angered and frustrated the powerful men who opposed her husband. Even after Governor Berkeley left office and returned to England, where he died in 1677, lieutenant governor Sir Herbert Jeffreys complained loudly that Lady Berkeley called frequent "caballs" at Green Spring and acted "still in the same maner as if her husband were still livinge."[10] Jeffreys, too, was unable to check her influence.

Lady Berkeley did not in any sense embrace a wifely or matronly role, preferring instead to involve herself in the most pressing political issues of her day. Although it did not elicit explicit negative comment, her childlessness also must have rendered Lady Berkeley and her marriages somewhat suspect to those around her. Virginia lacked the Puritan emphasis on childbearing. Nevertheless, there, as in much of the early modern west, the presence of children was a key indicator of a successful marriage.[11] William Byrd I debated in several letters whether Lady Berkeley was really pregnant during her marriage to Ludwell. In February 1684, when she would have been about fifty years of age, he wrote that she was "not yet brought to bed" and so questioned whether or not she was actually with child.[12] Later in the same year Byrd wrote again, noting that Lady Berkeley

continued to be indisposed because of pregnancy, but could not say when she might deliver and feared that her condition would "bring her to her end."[13]

Lady Berkeley's appetite for politics and skill in political brokering became most evident during 1675 and 1676, when, in Bacon's Rebellion, her husband faced the biggest political crisis of his administration. The rebellion, which sprang from many causes, toppled his authority as governor and effectively ended his career. In 1676, he wrote of the great difficulties of ruling "a people when six parts of seaven at least are poore endebted discontented and armed and to take away their armes now the Indians are at our throates [would] rayse an universal mutiny."[14] The discontent Berkeley referred to was real and widespread. Large and small planters alike were generally unhappy over depressed tobacco prices and high taxes. Recently freed servants found it difficult to enter the ranks of householders or obtain land and, after 1670, were barred from voting because of the "tumults" they caused. Slaves and servants, who appear to have joined the rebels and were the last to surrender, had more than ample reasons to revolt against the status quo.[15]

While the growing discontent endemic in Virginia unquestioningly fueled Bacon's Rebellion, hostilities with local Indians precipitated the revolt. What was to become a significant rebellion had its origins in a seemingly small event. In July 1675 Doeg Indians trading in Stafford County took some hogs belonging to a Thomas Mathew after he refused to compensate them. Mathew pursued and killed or injured one of the Doegs, who subsequently retaliated. A militia marched out against the Doegs but mistakenly massacred fourteen friendly Susquehannahs who, again in retaliation, although outnumbered and poorly armed relative to the English, conducted surprise raids and attacks throughout the fall and winter of 1675–76. More discontent sprang from Governor Berkeley's silence and unwillingness to act. Finally in January 1676 he commissioned troops to march against the Indians but recalled them before they had departed. To add insult to injury, at a special meeting of the assembly in March, he restricted the lucrative Indian trade and called for the building of forts that would only increase the already high tax burdens. Meanwhile, the Susquehannahs continued their successful raids on plantations north and south of the James River, sometimes killing servants and overseers. Planters wanted something done about it.[16]

Enter Nathaniel Bacon, Jr., a recent arrival from England, who set up a plantation at the falls of the James River and was friendly enough with the governor to be appointed to his council almost immediately upon his arrival. Bacon, who apparently had planned on getting involved in the fur trade, had also lost an overseer to the Susquehannahs. He felt the time was ripe to march against the Indians and found an already assembled group of poorer planters who intended to do so. They needed a leader, and Bacon agreed to ask the governor for a commission. Governor Berkeley denied the request, but Bacon, in defiance, led his troops and routed a village of tributary Occaneechees. In response, on 10 May 1676 Governor Berkeley denounced him as a traitor and removed him from the council; but by the end of the same month, voters in Henrico County had elected Bacon to the assembly. The conflict between the two men over Indian policy cooled briefly; Governor Berkeley pardoned Bacon and promised him the commission he sought. On 22 June 1676, in a dramatic showdown outside of the statehouse in Jamestown, Bacon, backed by five hundred armed men, publicly demanded the commission and finally got it. The rebellion lasted through the fall, during the course of which Bacon offered freedom to servants and slaves who joined him, did some considerable looting of loyalist estates, and continued to kill Indians indiscriminately. When Bacon died in October 1676, the governor took his own revenge, seizing the estates of the rebels and alleged rebels and, in the end, executing twenty-three men for their participation in the rebellion. The rebellion was over, but the Crown was not pleased with Berkeley and ordered him back to England immediately, where he died soon afterwards.[17]

Most contemporaneous accounts of Bacon's Rebellion come largely from the pens of the governor, his supporters, and the royal commissioners sent by the Crown to investigate the rebellion. One of the earliest representations of Lady Berkeley blamed her for her husband's misgovernment. One colonist from Maryland, for example, began a petition to the Crown with the following statement: "Now mark the late Tragedy [Bacon's Rebellion]: Old Governor Barkly, altered by marrying a young wyff, from his wonted publicq good, to a covetous fools age."[18] The complaint linked Governor Berkeley's neglect of his public interests to his marriage to Lady Berkeley. Blaming her for his faults, the petitioner argued that she transformed him from a wise ruler into a fool. Although she was no young "wyff" when she married the governor at the age of thirty-six, she was thirty-three years

younger than he. The petition implies that mistakes were caused by her youthful—a code for sexual—energies.

Under the influence of Lady Berkeley's misrule, he became "covetous," relishing "Indians presents . . . so wel, that many Christians Blood is pukkuted up, with other mischievs." She was politically outspoken, for the Maryland petition claimed that she said that her husband's policies would lead to the "overthrow of the Country."[19] If Governor Berkeley did not recognize the dangers of his policies, Lady Berkeley apparently understood that they could cause rebellion. Further, the Maryland petition suggests the public nature of Lady Berkeley's remarks: she told someone that her husband's policies were reckless. Ironically, then, the complaint asserts that she was the source of Governor Berkeley's weakness and ultimately led him to endorse positions that even she publicly regarded as dangerous. Apparently her sexually voracious, politically overreaching influence, once unleashed, could not be kept in check.

Nor could her outspokenness. Early in the rebellion, angry rebels had apparently threatened to reduce the quality of her wardrobe to "canvase linnen"—sailcloth—and make her glad of it in the bargain. At the close of the rebellion, when asked by Commissioner Francis Moryson to persuade the governor to pardon the rebel Robert Jones, she recalled the rebels' promise and framed a frank response around it. "If I am att all acquainted with my heart," her reply to Moryson began, "I should with more easinesse of mind have worne the Canvas Lynnen the Rebells said they would make me bee glad off, then have had this fatall occasion of interceding for mercy."[20] This was not, from Moryson's point of view, a promising beginning, but Lady Berkeley was only toying with him. Rather abruptly, she switched tracks: the remainder of the letter flattered Moryson's influence and established her husband's goodness. In the matter of the pardon, she wrote to Moryson, "only your opinion [is required] to make the Governour consent" to it.[21]

As a parting salvo, she noted that Moryson should "bee pleased to assure his friends" that Jones would be pardoned, as mercy was as "inherent" in Governor Berkeley's heart as it was in her own. Here, Lady Berkeley defended her husband from accusations of cruelty for the excess and zeal with which he executed rebels. Moryson, however, was not entirely convinced of her husband's benevolence. He later wrote that the pardon of Jones—"the only pardon given to all those condemned in Virginia"—was obtained through "my Lady Berkeley's

means" who "did soe intercede to Sir William as to get [a] reprieve by him." What might have convinced her or Governor Berkeley to do so? As it turns out, Robert Jones was a royalist who had served Charles I "loyaly and stoutly, and still bore the markes of it, having many wounds to speake it for him."[22] Since Governor Berkeley was himself a royalist and Lady Berkeley's father had been killed in service to Charles I, they found it possible to reprieve this man regardless of any allusions to "canvasse linnen." Still, according to Moryson, Robert Jones was pardoned through Lady Berkeley's maneuvering.

The power of her speech was far-reaching. She might flatter a commissioner; but even before the rebellion properly began, Lady Berkeley refused to soften or accommodate her words to male authorities, as many women without the sanction of her rank might have done.[23] Instead, she fired open challenges, aiming at issues that would do the most harm to the reputations of men who opposed her husband. When Bacon's wife Elizabeth arrived in Virginia in 1675, she had been friendly enough to stay with the Berkeleys; but in subsequent months relations between the families soured. The governor had appointed Bacon to his council but rejected his proposal to trade with the Indians and rebuked him when he seized some of the Appomattox tribe for allegedly stealing corn.[24] And when the governor denounced Bacon on 10 May 1676 and removed him from the council, Lady Berkeley took the opportunity to defend herself. A letter from Bacon to the governor, dated 15 May, complained that Lady Berkeley had "raised severall scandalous and false reports" of him, including, specifically, that he "was not worth a Groate."[25] His accusation became the basis on which she leveled her own attack on the rebel.

In her undated response, Lady Berkeley resisted Bacon's attempts to characterize her as a brabbling woman. Instead, she answered his charges directly, assuming, instead of submission or weakness, superiority of judgment. She intended, she claimed, to "unravell this thread" of Bacon's complaints, although it was the rebel's true character itself that she sought to expose. She began the account by defending herself and her husband. Having not been "born of a family that have taught me to lye" as well as in "just defense" of her husbands "honor," she explained that several prominent planters reported to her that Bacon was unable to pay his debts. In case the reader of her account might doubt her story, she cited the amounts of his debts and the names of her informants. One of them, William Byrd I, who reportedly told Lady Berkeley that Bacon owned him £400, was one of

Bacon's chief allies.[26] Having revealed her sources, or "authors," as she called them, and chosen them extremely well, she let herself off the hook. "If *they* have done him wrong, Hee may disprove *them*," she stated, effectively laying further discussion of the matter firmly on their shoulders.[27] Bacon undoubtedly took umbrage at her charges because such remarks could ruin a man's reputation in the early modern world. Moreover, these kinds of remarks were typically made by men about other men and, if untrue, were the basis for the injured party to bring a defamation suit.[28] By publicly disclosing Bacon's indebtedness, Lady Berkeley was crossing the divide into the male-dominated public sphere. By revealing her "authors" and placing further responsibilities for the rumors on them, she also demonstrated that she understood when and how to retreat from that realm.

Bacon's indebtedness was, of course, only a pretext for Lady Berkeley's account. She shrewdly seized the occasion to redirect his characterization of her as a mere gossiping woman and instead demonstrated her superior knowledge of him. Many men in Virginia were poor or indebted; but Bacon, she insinuated, had dissembled about his wealth and deliberately misled people. Because he had passed himself off as wealthy—because he was a charlatan, she implied—the "people" held a "universall prepossession" that Bacon "would not only bee their Captain, but beare all their charges [and] releave and maintaine the wives and children of all those that should goe out with him." She used his indebtedness to suggest that he was not to be trusted. "I doe wish with all my heart hee had as much as the people believe," she pleaded, "for I know his Education hath been such, as hath made him capable of spending monys after a more Agreeable fashion then to break Heads and make Plaisters for them."[29] If disclosing the nature of Bacon's estate did not turn the people against him and back to the loyalist camp of her husband, Lady Berkeley had another weapon in her arsenal. Bacon's letter had also complained that she had said that he was a "Parliamentary Captain," someone who had marched against the cavaliers and Charles I during the English Civil War.[30] This was a serious charge in Virginia, a colony with cavalier refugees and royalists who included the governor, his wife, and most of their relations. Lady Berkeley may well have known that one of Bacon's forebears was a prominent supporter of Cromwell.[31] She gave no clue that she did, however, but flatly denied Bacon's accusation and moved on to more pressing issues.

Lady Berkeley's narrative engaged in remarkable twists: it is at once

a defense and an attack, it chronicled her entry into the male world of politics and reputation, yet in the end it retreated into safer territory as a means of attacking him. Strengthening herself with the last word, Lady Berkeley effectively answered Bacon's complaints by lodging a few criticisms of her own, which, unlike her forays into the male world of political intrigue, were more securely seated in the realm of female honor. The rebel Bacon, she wrote, "must excuse my just resentment that I accuse him of a worse crime than poverty . . . for I do accuse him of ingratitude . . . [for] casting all kind of aspersions upon [the] courage and conduct [of] the government of this country." She further insisted that Bacon lacked the honorable qualities of a gentleman. All of these actions, she claimed, "rent" her heart. Instead of protecting and befriending her out of respect and friendship, Bacon broke the laws of "Honor and Humanity" by turning against the Berkeleys. How could she possibly "deserve so mean an affront"?[32] In short, Nathaniel Bacon, Jr., had not treated her with the respect and submission that her rank and her sex required. Bacon was better off volleying shots with the governor: he was not likely to best Lady Berkeley.

Upon learning of the troubles in Virginia, Charles II appointed a commission to investigate the matter. Almost immediately upon their arrival in February 1677, the commissioners began disputing with the Berkeleys; and Lady Berkeley appears to have surpassed even her husband in giving offense to them. The express purpose of the investigation was to obtain information about the rebellion's sources and to offer counsel to the governor, but not surprisingly the Berkeleys viewed the commissioners with suspicion and distrust. Neither the governor nor his wife received their advice charitably. For instance, the commissioners brought with them the king's pardon for all rebels, but the governor stalled in announcing the proclamation. When he finally did issue the pardon, he concomitantly engineered the passage of a statute that allowed individuals identified by the government as loyalists to continue seizing the property of those it identified as rebels.[33] The commissioners were stunned.

Their investigation came to an uneasy close. On 22 April 1677 the Berkeleys entertained the commissioners at a farewell gathering at their Green Spring home. At the close of the evening, the Berkeleys' coach was sent for so that the commissioners could be driven to the river landing where their barge awaited. When it arrived, the com-

missioners were shocked to find the colony's executioner acting as postilion. They were furious at the insult. The hangman was a powerful symbol of degradation. As they later wrote, he was "every day" at Green Spring putting "halters about the Prisoner's Necks in Court" when they made their "submission for the crimes att the Barr of Justice."[34] Such a man should not accompany the Crown's commissioners anywhere. Angry at this disrespectful gesture to their "private persons as Gentlemen" as well as to the king they represented, the commissioners bypassed the carriage and "had the grace and good luck to go all the way on foot" to the river.[35]

In a letter written to the Berkeleys the next day, the commissioners threatened to make the king the ultimate "judge of this high indignity."[36] When they made good on their promise, they expressed their certain opinion that the "late base indignity" was intentionally engineered by Lady Berkeley. They noted that Lady Berkeley "with great forward noise" often "pressed the making ready of the Coach" to transport the commissioners to the river landing. They would have walked; but she had said that, if they chose to do so, the coach would then follow them. After suffering from the insult of the common hangman, they made their way to the river on foot, somewhat hastily, one suspects. They glimpsed her watching from an upper window of the house to "observe how the show looked" and offered their conclusion that "this trick looks more like a woman's than a man's malice."[37]

The Berkeleys, of course, vociferously protested their innocence, and both immediately sent letters of regret to the commissioners. Governor Berkeley declared his sorrow about the "horrid misadventure." Lady Berkeley, a seasoned hand at dealing with her husband's adversaries, wrote a direct defense of herself and the governor. She began by noting that the commissioners' letter was addressed to the governor; but "finding myselfe the only concern'd person in the innocent mistake," she took the opportunity to defend both herself and her husband and sought to "wash" the Berkeleys clean of any charges of wrongdoing.[38]

While Lady Berkeley's letter argued for her innocence, it also took responsibility for the entire course of events: *she* was responsible for ordering the coach and coachman, *she* told the governor that she had done so, and *she* retired to her chamber while her husband said his farewells. Of course, *she* also had no knowledge that the colony's hangman, rather than the Berkeleys' usual coachman, was driving the coach. She then closed her letter with a strong defense of her husband,

asking the commissioners' pardon "if I say that the Governor is dealt more severely with in this censure . . . then ever man of his quality and character has been in the world." Moreover, she also attempted to dissuade them from informing the Crown, assuring them that Charles II would believe that the commissioners had offered "some indignity to the choice the royal father has made"—in other words, that Charles II would prefer her husband's version of events. As she did skillfully in her exchange with Nathaniel Bacon, here, too, she redirected the commissioners' threats and offered both a defense and an attack. She concluded the letter by reiterating a theme favored by her husband—that he had suffered false accusations in the manner of Jesus Christ and Charles I—and signed herself "the wife of the persecuted Sir William Berkeley."[39]

In word and deed, Frances Berkeley played a significant role in Virginia's political culture during a period of crisis. By directly entering into debate with those who opposed her husband's policies, both with the leader of the rebellion and his followers, she manipulated the conflict around her. By accusing Nathaniel Bacon, Jr., of indebtedness, for example, she potentially damaged his reputation in the colony. Backing up that accusation with the names of specific men to whom Bacon owed money, she placed him in an untenable position: discrediting him was tantamount to discrediting his rebellion. Her attempt to mix penury with politics was perhaps an attempt both to invoke traditional deference for rank and wealth and to expose Bacon and his policies as untrustworthy. Certainly her contemporaries believed her to be capable of such manipulation: through influence over her husband, rumors about Bacon, and insult to the king's commissioners, she confirmed some of the worst fears expressed by the Maryland petition about female misrule. Had William Berkeley made a more sensible choice of spouse, it argued, the rebellion and his subsequent disgrace might have been avoided. Interestingly, Lady Berkeley suffered no loss to her own reputation. In 1861, a Confederate soldier at Jamestown Island wrote that he scattered flowers over her grave as a meager tribute to her "departed value and worth."[40] No such remembrance was offered for the governor.

> *Mrs. Grendon (once Mrs. Stegg) told* hundreds . . . *that I was a greater friend to the Indians than to the English.*
>
> SIR WILLIAM BERKELEY
> (1676)

Other women, on the other side of rebellion, also invoked fears of female misrule and were scrutinized under the lens of Virginia's leadership. Framed by an essentially loyalist viewpoint, stories about women on the side of rebellion reflect the same preoccupation with female misrule and brabbling speech. Like Lady Berkeley, women whose sympathies lay with the rebels were portrayed as outspoken, aggressive political actors, seemingly unafraid of and unconcerned about possible future reprisals for their actions. Moreover, representations of women who supported the rebellion focused almost exclusively on their "foolish," "indiscrete," and "malignant" speeches.

While loyalists were intolerant of sedition from either men or women, their portrait of male rebels centered on their characters more than their words, depicting them as greedy, shady, or dissolute men. In May 1676, for instance, three of Virginia's loyalist leaders wrote to the Council of Trade and Plantations with specific complaints about Nathaniel Bacon, who, they declared, was a "black divell" and a "wild man." His followers were "imps," and few were "persons of reputation" or could "read or write."[41] More darkly, Secretary of Virginia Nicholas Spencer reported that another chief rebel, Colonel Brent "dranke of health to the divell" with his soldiers.[42] The language linked Bacon and his followers to nefarious activities and, at the very least, suggested that they were cunning or schooled in magic. The royal commissioners echoed this language when, in their narrative of the "Rise, Progress, and Cessation" of the rebellion, they wrote that Bacon, "having conjur'd" the people "into this circle," gave them brandy to "wind up the charme" and enjoined them by oath to "stick fast together."[43] To a seventeenth-century audience, these references would be both familiar and frightening, suggesting that Bacon had supernatural aid in gaining power and fomenting rebellion. Time and again it was reported that Bacon "seduced" people. The royal commissioners wrote that it was so. The London Board of Trade echoed the idea in their "Proclamation About the Rebellion in Virginia" (1676) in which they offered a bounty for Nathaniel Bacon and any adherents who had been "seduced" by "specious" pretenses.[44]

Still, as represented in loyalist narratives, Bacon's followers were perhaps not difficult to overawe. Philip Ludwell, a Berkeley supporter who eventually married the widowed Lady Berkeley, reported that the rebels had "lewd dispostions" and "willing minds" and were thus easily "seduced."[45] Nicholas Spencer described Bacon's principals as "debauched": Ingram was a footpad or thief; Bimington had run away with

another man's wife; Brent had an Indian mother and her "brutish" nature.[46] Ann Cotton, the only woman who chronicled the rebellion, argued that Ingram had "capered himselfe into a fine (though short lived) estate: by marying with a rich widow."[47] Colonel Laurance, another rebel, had married a "wealthy widow who kept a large house of publick entertainment unto which resorted those of the best quality."[48] Married or not, Laurance was found too often, according to another observer, "in the darke imbraces of a Blackamoore, his slave: And that in so fond a maner, as though Venus was cheifly to be worshiped in the Image of a Negro; or that Buty consisted all together in the Antiphety of Complections."[49] Finally, another account reported that the rebel Colonel Hansford was captured because "he had forsaken the capitole of Marss, to pay his oblations in the temple of Venus," which, it was suggested, he did rather often.[50] In short, rebels were men who had illegitimately gained financial or social power but lacked the character or comportment of gentlemen. Their propensity for evil, undeserved fortunes, weak minds, and sexual proclivities combined to explain why they fell into rebellion. Was it to be endured, Philip Ludwell asked, that the "scurrilous tongues" of this rabble be allowed to "prostitute" the honor and reputations of loyalists?[51]

Stories about women allied with the rebel cause were framed around familiar cultural narratives of female misrule and, more specifically, the troublesome speech of disorderly women. These "news wives," as historian Steven Saunders Webb has called them, found their voices and, with them, threatened the governor. According to Governor Berkeley, outspoken women were central to the spread of rebellion. He complained that "Mrs. Sarah Grendon (once Mrs. Stegg) told *hundreds* . . . that I was a greater friend to the Indians than to the English." Sarah Grendon's news, he declared, was "*personally spread* through the whole country," causing the "rabble" to threaten the "better sort of people."[52] Elizabeth Duke Bacon, wife of the rebel Nathaniel Bacon, Jr., echoed those words when she wrote to her sister that Governor Berkeley was "so much the Indians' friend and our enemy."[53] Women were talking to "*hundreds*," openly challenging the governor's authority and sparking rebellion. Governor Berkeley recognized the power of women's speech to disrupt civil society and was clearly frightened by the prospect.

Just as loyalist pens indicted Nathaniel Bacon for having "conjur'd" the people, they also condemned women's disorderly speech for inciting rebellion. Sarah Drummond, wife of principle rebel William

Drummond, was condemned as "notorious and wicked."[54] Her husband took up arms against the government, but she carried his news into public and declared in several instances her lack of fear of Berkeley or his troops.[55] Drummond wrote a "public and open letter" to his wife, urging people toward insurgency, and she broadcast his wishes. Just as her husband's actions were treasonous, so were her words: breaking a stick, she declared that she valued the "power of England no more than that." Virginians, too, she noted could "build ships and trade to any part of the world" they pleased. Her most damning statement may have been that "the child that is unborn shall have cause to rejoice for the good that will come by the rising of the country."[56]

Similarly, Lydia Chisman (the daughter of Quaker sympathizers and the daughter-in-law of Mary Chisman, who attended Quaker meetings in the woods with her slaves) claimed to have persuaded her husband to rebel.[57] At her husband's execution, she pleaded with Governor Berkeley, owning that it was "her provocations that made her Husband joyne in the Cause that Bacon contended for; ading, that if he had not bin influenc'd by her instigations, he had never don that which he had don." Privately Governor Berkeley might blame women as a real source of insurgency; publicly, however, he called her a whore, even as the writer of the account noted that Berkeley knew that what Lydia Chisman had said was "neare to the truth."[58]

From the viewpoints of their contemporaries in Virginia, women such as Sarah Grendon, Sarah Drummond, and Lydia Chisman were paragons of misrule who fomented treason through their disorderly speech. Their words were remembered and recorded. Male rebels were remembered for being sexually dissolute or marrying for fortunes but, with the exception of Bacon, not so much for what they said. While their contemporaries mused about the sexual predilections of Brent or Ingram, they preserved few statements of rebellion made by them. Only Bacon's rebellious words were extensively recorded. To a certain extent, that fact alone likens the power of women's words to that of the rebel himself. Through their talk, women, like Bacon, could seduce men into rebellion: Governor Berkeley claimed that Sarah Grendon had done so, Virginia's burgesses claimed that Sarah Drummond had done so, and Lydia Chisman herself claimed to have done so.

Since they were on the losing side, of course, these women amply paid for their actions. Unlike Lady Frances Berkeley, they were not protected during their foray into political life. Sarah Grendon, initially exempted from the general pardon offered to rebels, offered a humble

and feminine apologetic for her "foolish and indiscreete words."[59] Other, less prosperous "news wives" who "fomented many malignant and rebellious words" during Bacon's uprising received corporal punishment.[60] William Drummond was hung as a rebel, and his estate was seized and withheld from Sarah Drummond even after the estates of other rebels were returned to them. She petitioned for the restoration of her belongings; but while the Crown's Committee for Trade and Plantations looked favorably upon her request, she got no sympathy in Virginia. The burgesses responded vehemently that her claim was forfeit, although in the end she seems to have recovered her property.[61]

The representations of rebels and of loyalists present a remarkably coherent picture of women and misrule. Loyalist women, even Lady Berkeley herself, were capable of encouraging bad policies. Rebel women were equally and similarly dangerous. Outspoken women all, they crossed the divide into the formal public and political sphere of men; and by all accounts they were extraordinarily successful in their efforts. The response they received from the authorities, who complained about, censured, and publicly disgraced some of them, suggests that women's words were as treasonous as men's swords. As if to reassure themselves, observers of Bacon's Rebellion fashioned meaningful antidotes to women's poisonous tongues.

Innocent and harmless wives [stood] as a white garde to the Divell.

Unknown observer of Bacon's Rebellion (1676)

Contemporary accounts of Bacon's Rebellion agreed that it threatened marital stability and the safety of wives and children. The "mutinous," "rebellious," and "mischevious" actions of the rebel Bacon caused an "unhappy separation" between Governor William Berkeley and "his incomparable Lady," Frances Berkeley.[62] Likewise, Philip Ludwell pleaded that women and children were ravished from their houses and hurried about the country in the rebels' rude camp, often "threatened with death because their husbands and fathers obeyed his majesty's lawful power."[63] Post-rebellion petitions maintained these images. Alexander Walker argued that he, his "poore wife, seaven small children, and four servants" lived "almost naked" during the rebellion; Sarah Drummond pleaded that she and her "five poor children" were made to "flye from their habitation and wander in the deserts and woods, till they were ready to starve."[64]

Accounts of domestic instability were extended even to the Pa-

munkey Indians and especially their queen, Cockacoeske, whom the governor believed to be his ally. Bacon attacked the Pamunkeys, killing at least eight, taking forty-five captives, and looting and destroying their town. The rebels chased Cockacoeske into the "wild woodes where shee was lost and missing from her owne people fourteen days," staying alive only by "gnawing sometimes upon the legg of a terrapin"[65] Later, when asked to supply warriors for Berkeley, she refused to fully grant the request. Still, one account reports that she commanded her people to "neither fire a gun nor draw an arrow" upon the English because she "ever so much loved and reverenced" them.[66]

The "white aprons" episode, found in several accounts of the rebellion, is probably the strongest representation of the danger rebels posed to domestic stability and white women in particular. The white aprons were a group of loyalist wives who were seized by Bacon's forces and brought outside of Jamestown, within which the governor's forces were protected.[67] Bacon ordered the women to ascend onto dirt ramparts and taunted the governor's men to shoot or retreat.[68] Berkeley's men quickly capitulated to Bacon's demand, abandoning Jamestown, which the rebel forces then torched.

In loyalist hands white aprons became a "white garde to the divell," symbols of virtue standing against mayhem. They were the "innocent and harmless wives" of "prime Gentlemen" allied with Governor Berkeley's loyalist forces. Berkeley's forces were appalled by the ungallant tactic, while the white aprons themselves, we are told, were "mightely astonish'd at the project."[69] As all accounts relay the event, the women stood as ordered by Bacon, silent and inert, collectively reduced to an image—a white apron—that underscored their virtue, domesticity, and faithfulness to their roles as wives.[70] They, too, like the stories of marital separations and families turned out of their households, become a powerful argument that underscores the audacity and incivility of Bacon and his followers. In order to discredit rebels, writers focused on their innate depravity—evil, sexual dissolution—as well as their cruelty to paragons of domestic stability such as the white aprons. The threat posed by Bacon to Virginia's households and especially to its white women was an important measure of his propensity for evil.

Female Misrule and Legal Lessons

In order to give a lesson about the importance of white aprons and, at the same time, specifically constrain women's voices from politics,

Virginia's lawmakers went to work to frame a law that would suppress women's speech. It was not the first time they had done so. As we have seen, in 1662 the colony's burgesses sought to quell the gossip of women because unruly female talk threatened patriarchal order. They framed a unique law that penalized free married white women for gossiping.[71] It not only directly targeted women and sought to censure and curb their behavior and speech, but it bypassed traditional protections of coverture since, under common law understandings, a husband was liable for any damages in a civil suit, including slander, occasioned by his wife. By the terms of the new law, he could either pay those damages or allow his wife to receive a ducking as punishment. The act attempted to revitalize husbands' authority over wives and, in the process, deflate the power of women's speech.

The 1677 "Act of Reliefe" for loyalists also fashioned distinct penalties for married women who chose to use words recklessly. The comprehensive law essentially allowed anyone defined by Virginia's leadership as loyal to seize property from those designated as rebels.[72] More to the point here, it also took aim at the brabbling speech of married women, once again circumventing the protections of coverture for the specific crime of seditious and scandalous libel. The terms of the statute stipulated that any *feme covert* who should speak, write, or tend toward rebellion would receive twenty lashes on her bare back. First and second offenders could redeem corporal punishment by paying fines (one thousand pounds of tobacco for the first offense, doubled for the second offense). By contrast, men and unmarried women received the same fines and were ordered to stocks with letters of their crimes affixed for first and second offenders. All third offenders would be prosecuted as traitors.[73]

As they had tried to do in 1662, once again the colony's lawmakers attempted to quell political turmoil reestablishing the dominion of husbands over disorderly wives. More important, they wielded their considerable authority over the ungoverned tongues of unruly women. Because, however, provisions about disorderly female speech were contained within a larger law that allowed litigation and the seizure of rebels estates to continue indefinitely, the law was repealed by an act of free and general pardon in 1680.[74] To be sure, that proclamation promised to punish future sedition, but it did not single out the speech of married women for special punishment. When the Tobacco Cutting Riots began in 1682, Virginia's leadership may have regretted that they had not done so.[75]

> *The women had so cast off their modesty as to take up the hoe that the rabble were forced to lay down.*
>
> NICHOLAS SPENCER,
> secretary to Virginia (1682)

When Secretary Nicholas Spencer wrote an account of Virginia's Tobacco Cutting Riots in 1682, he began ominously. "Bacon's Rebellion," he wrote, "had left an itching behind it." In part, his statement testifies to the continuing instabilities in the colony. Spencer felt it "plaine" that the tensions of Bacon Rebellion had lingered on.[76] He detailed the unhappy state of affairs in the colony. A "mutinous" mob had engaged in "wild and extravagant" rioting, traveling from farm to farm and destroying tobacco seedlings in the fields. Thanks to mounted militia patrols and the promise of harsh penalties for rioters, the government successfully curbed the insurrection—or so they thought.[77]

Things, in fact, had not quieted. Something unexpected and alarming had occurred: "the women," Spencer reported, "had so cast off their modesty as to take up the hoes that the rabble were forced to lay down."[78] So begins Spencer's account of the Tobacco Cutting Riots that plagued Virginia in 1682. Agrarian rioters were motivated by a glutted tobacco market; low prices and slim profits affected the incomes of small and large planters alike. They had complained: planters in Gloucester, Middlesex, and New Kent counties petitioned the General Assembly to convene, hoping to urge the legislature to pass a law limiting tobacco production and thereby force up prices. Lord Culpeper, the colonial governor, had left the colony with strict instructions that the assembly not meet again until he returned. Sir Henry Chicheley, the acting governor, reluctantly succumbed to the petitioners' request in April 1682 but postponed any discussion of limiting tobacco planting.[79] Subsequently, planters took to the fields. All told, it is estimated that they destroyed crops on more than two hundred plantations.[80] So serious was the "frenzy," according to Secretary Spencer's report, that farmers witnessing the destruction of their own crops were often seized with the madness and joined the rabble, helping them destroy the crops of their neighbors.

Secretary Spencer's report that women took up the hoes that mob "had been forced" to lay down is worth further remark on several counts. Spencer found it alarming that, while men had been stymied by the militia, women had taken up the hoes that the mob used to

chop down tobacco plants. He was struck by this action, not simply because the act was, on the face of it, defiant but also because hoes were emblems of fieldwork: work done by freemen, male indentured servants, and, increasingly, slaves of both sexes. As early as 1656, John Hammond had reported that white female servants were not commonly put to work in Virginia's tobacco fields, except for "some wenches that are nasty, beastly, and not fit to be [otherwise] imployed."[81] Surely part of Spencer's surprise came from the appearance of free white women who, as they grabbed the hoes, assumed a political role relinquished by their male counterparts. Moreover, literally and emblematically, their actions also linked them to servants and slaves. Their actions were transgressive on both counts: Spencer found these women immodest precisely because they violated boundaries of gender, class, and race.

Given the structure of Virginia's labor force, hoes more likely would have been the implements of slaves, who, by 1680, accounted for four of every five unfree workers on tidewater farms and plantations.[82] While the number of African American slave women was perhaps half that of their male counterparts, they, too, would have been engaged in fieldwork.[83] Did Spencer consider them as part of the rabble? His invocation of modesty suggests that he referred to free white women who did not regularly handle hoes. It seems quite conceivable that the small but growing population of unfree black and mulatto women who did fieldwork were, at the very least, witnesses to—if not participants in—the riots. In the eighteenth century, Benjamin Henry Latrobe made a watercolor sketch that is instructive for its visualization of the hierarchies of Virginia's tobacco fields and, more specifically, the use of hoes. (see fig. 5) In his illustration, two slave women appear to be clearing fields for the planting, hoeing amid burning tree stumps. A white overseer is elevated above them; he leisurely smokes a pipe and casually supervises them. His position, dress, and demeanor are striking contrasts to the slave women who bend to their work. He has individualized facial features; they do not. He is at his ease; they are stooped at work. He is covered in a hat, waistcoat, vest, shirt, trousers, and boots, while they have bare feet, bare forearms, and bare heads. These labor hierarchies had emerged by the late seventeenth century and allow us to reconsider the gender and racial composition of the tobacco rioters. It seems possible that, given their presence in the tobacco fields as workers with hoes, even slave women might have observed—or joined—the tumultuous mobs as they destroyed plants.

Figure 5 Benjamin Henry Latrobe, *An Overseer Doing His Duty,* 1798. Courtesy of the Maryland Historical Society, Baltimore.

As for free white women, at least two were ordered to be punished for participating in the plant cutting. A few days before Spencer wrote his report, the Executive Council of Virginia concurred with his analysis, noting that "ill disposed women in Glocester County, doe persist in the evil and notorious riots, spoiles and great abuses and damages of cutting up tobacco plants."[84] The council specifically ordered the (unnamed) wives of Thomas Allman and Richard Longest to be arrested for plant cutting but not before they asked the husbands to redress the "wickedness" of their wives by offering security. Both men refused to do so. The Council ordered the sheriff to detain the women and force their appearance on 30 May; but since the records of the General Court of Virginia (as well as those for Gloucester County) for this period were destroyed, we cannot know if or how the two women were punished. The council drew from the laws passed in 1662 and 1677 when they designed punishments for women's disorderly and seditious speech. First, they turned to the husbands for security. The easiest course was to demand that Allman and Longest to bring their wives back into compass. The men, however, refused. Did they intend

to see their wives publicly punished? Were they out of credit or buying time in hopes of a pardon that would indeed come in early August?[85] The motives of the husbands may be debatable, but the council's strategy seems clear. Thanks to the response of lawmakers to female misrule in earlier decades, at the very least they had a model for punishing brabbling women near to hand.

The 1682 Tobacco Cutting Riots were the last of about thirty-odd years of episodic insurgency organized on the part of men and women in seventeenth-century Virginia.[86] Although varied in the threat they posed to the government, sectarian, civil, and agrarian revolts all sprang from the roots of English and European insurgency that persisted in attenuated forms in seventeenth-century America. Motivated by a variety of causes continuous with those of English insurgents—sectarian affinities, the dissatisfaction of laborers, competition for status, threats to subsistence—Anglo-Virginians undertook collective action to remedy their complaints. And as in Europe and England, women were a visible part of the insurgent movements, whether those were religious, political, or agrarian struggles. Women's radical activism was part of Virginia's cultural inheritance from England.[87] White women in Virginia acted on a historical continuum of female radicalism, but their efforts differed from the collective female insurgency in England. In seventeenth-century Virginia women rioted but they did not engage in collective petitions or protests, save for the notable moment when the women of 1682 hefted hoes at authorities.[88]

While we do not know expressly if African American women participated in these more or less organized revolts, we do know from the diaries of planters such as William Byrd II that, at least from the point of view of masters, slaves made acts of resistance on a daily level. While such daily rebellions were of an order different from armed revolts such as Bacon's Rebellion, they were more than mere acts of disobedience. Rather, as affronts to the authority of the master, these were insurrections against the domestic politics of the household. Byrd certainly thought they were. Whenever his slaves pilfered his goods, ran away, or concealed infractions, he punished them. He whipped Jenny for concealing the bedwetting of another slave; put a bit on an unnamed female slave who ran away repeatedly; and beat Prue for helping herself to beer, cider and wine.[89] While these might

seem small acts to garner such violent retaliation, they constituted a resistance to slavery that was a means by which slaves opposed "dehumanization."[90] Moreover, they suggest that a black female insurgency existed alongside that of white women in late seventeenth-century Virginia.

Virginia's lawmakers made a variety of attempts to solve the problem of brabbling women, female misrule, and political resistance. As we have seen, in 1662 and 1677 they wrote laws that aimed to contain female speech. In 1691 and 1705 they enacted statutes that restricted and criminalized sexual interaction and marriage between white women, on one hand, and blacks, Indians, or mixed-race individuals, on the other.[91] By 1699, perhaps as a response to women's entry into political culture, they barred women from voting in elections, the only colony in North America to do so.[92] All of these acts revitalized patriarchal authority over women. But there was more. Mastery, too, was revitalized. In 1662, a statute declared that slavery would be determined by the condition of the mother, one of the more decisive moves toward creating a permanently enslaved class based on race.[93] By 1669 it was not accounted a felony when slaves resisted their masters and died because of the "extremity of correction" they received. By 1680, slaves were prevented from carrying firearms and traveling without a pass and were barred from visiting another plantation for more than four hours.[94] Laws shored up a destabilized patriarchy by extending the actual power of masters over slaves. The combined force of these laws attempted to stifle insurgency from free and unfree Virginians, regardless of sex. At the same time, the laws underscored emerging cultural definitions of white womanhood that favored the white apron over the news wife and relegated women of color to intensive labor, sexual exploitation, and permanent enslavement.

Decades would pass before the voices of white women were accounted as disorderly and troublesomely influential in colonial Virginia's politics. Kathleen M. Brown argues that there was no Lady Berkeley or Sarah Drummond in eighteenth-century Virginia: the consolidation of the planter gentry and the masculinization of the political sphere marginalized white women from politics.[95] Public, political action by Virginia's women did not resurface visibly until the revolutionary years, when they were active in boycotts, fundraising, petitioning, and electioneering.[96] And although women were notable participants in the local politics of eighteenth-century Virginia, they

did not do so, as did their seventeenth-century counterparts, through brabbling speeches.[97] We turn our gaze next to the households, neighborhoods, and courtrooms of those seventeenth-century counterparts, where free and unfree women offered up their own narratives, telling stories that both resisted and confirmed charges of female misrule, often with great success.

2 Sexual Stories

Narratives of Consent and Coercion

> *She in open court before the jury att the bar did possatively owne and declare[that] the plaintiff . . . offered much rudenes to her with divers perswasions to lett him lye with her, and that shee called out but yett nevertheless the plaintiff by striving and compultion had the use of her body as she stood upright with her child in her arms.*
>
> ELIZABETH BURT,
> wife and mother (1692)

CONSTRUCTING A NARRATIVE, regardless of the context in which it is offered, imposes meaning on experience. Every story is potentially an allegory, a way to infuse happenings with a moral meaning or, more generally, with a significance that they do not possess simply as events.[1] Accounts of Lady Frances Berkeley, for instance, by isolating the facts of, first, her youth, relative to that of her husband, second, their marriage, and, third, civil uprising, moralized reality in such a way as to blame her for Bacon's Rebellion. Similarly, the stories of the white aprons also moralized reality and cast doubt on the character of a man who would stoop to the ungentlemanly gesture of endangering women in the midst of armed rebellion.

Shifting the focus of our inquiry from the politics of Virginia to the colony's courtrooms, however, opens a window on the experiences of more ordinary women in early Virginia, the wives of small planters, indentured servants, slaves, and widows. If they were ordinary by virtue of rank and class, however, these women were atypical because in moments of personal crisis they turned to the legal system and, specifically, the venue of the York County court for aid. Examining their stories provides a more nuanced exploration of women's experience as well as their encounters with the law and local legal actors. This chapter investigates women's stories of sexual consent and sexual coercion, analyzing their narrative strategies, the imagery and stereotypes prevalent in the stories they told before legal officials, and the legal

strategies they employed in seeking redress for their complaints. It will also analyze the effect or success of women's narratives on legal charges brought against them by local legal actors such as neighbors, grand jurymen, churchwardens, and justices where sexual matters were directly at issue.

This chapter is based upon two court cases from seventeenth-century York County in which sexual coercion was a central issue. In 1662, Ann Collins, an indentured servant, gave a lengthy deposition to the York justices concerning how she came to be single, unfree, and pregnant. Collins's case is worth examining for several reasons, not the least of which is that it is one of the few extended narratives of sexual coercion that exists from an indentured servant. While other, similarly situated women in Virginia may have given similar accounts before justices, for the most part these confessions did not survive, either because they were not recorded or because some clerk ascertained that the details did not warrant recording. The second case, from 1692, centers on the married Elizabeth Hansford Burt and her claim that she had been raped. Legal cases about sexual assault, like Burt's, are similar to the record of Collins's confession in that they are rarely found in seventeenth-century court order books for Virginia's counties.

I do not understand this to mean that sexual coercion in colonial Virginia was rare but that legal records of sexual assault, then as today, widely underreport its occurrence. To the extent that this was true of white women, it was doubly the case for slave women, who had no legal standing under the law. Raping a slave was legally understood to be a trespass against the master rather than a crime against the woman.[2] Yet if women of color, as marginalized legal subjects, could not resort to the law, the diaries of colonial planters, unwittingly perhaps, clearly suggest the range of sexual assault directed toward slaves and other women of color. Although those women lacked the protections of the law, extralegal evidence reveals the ways in which they shrewdly maneuvered to avoid the unwanted advances of men. Unlike the protests of white women, who had the opportunity to be heard in court, the protests of unfree women largely do not directly survive in court records. Still, even from the pens of slaveholders, their various attempts to resist are clear and exist in counterpoint to the speeches that white women were able to offer in courtrooms.

The Collins and Burt cases illustrate the difficulties that white women might face in legally establishing sexual coercion. They had

to construct narratives that, they hoped, would gain them remedies from the local justices and vindication from neighbors. Moreover, the stories that women told centered on their coerced sexual relations with men who were also known to the legal fraternity and the neighborhood. Therefore, the burden on women was substantial: they had to construct depositions and swear to events in ways that would convince those assembled that legal harm had indeed been done to them. In other words, their stories needed merit. And to be credible, women had to show that they had been morally, as well as physically, wronged. Moralizing reality in such a way was an exceedingly risky project, and it helps explain why legal accusations or even reports of sexual coercion largely escaped formal treatment in early Virginia's legal system. To tell their stories, women were required to take center stage in the social and legal dramas in the neighborhood. When she stood before an open court or offered her deposition to a single justice and clerk, a woman employed an agency that she might not otherwise possess, which was precisely why the move was so risky.

Still, Virginia's courtrooms in the seventeenth century were permeable to white women and their grievances. Measuring at least by the women who came before the York County court, magistrates and jurymen alike were sometimes persuaded by the stories that women presented. In order to be believed, women often used dramas of dependency and victimization and traditional images of female meekness, weakness, and submission to their advantage. At the same time, their insistence on being heard in a legal setting explicitly challenged those traditional ideas. Their words conformed to ideals of feminine submission but their voices resisted and challenged, through talk and action, the legal harms and restraints that constrained them and reflect how they grappled with legal and patriarchal authority. We turn then, from general laws and the proclamations and pens of Virginia's leaders to a study of the York County court in order to understand how women, both free and unfree, attempted to control the definitions of sexual coercion.

> *Hee told hee would free mee from my master whatsoever it would cost him.*
>
> ANN COLLINS,
> indentured servant (1662)

In seventeenth-century Virginia, matters of sexual consent and coercion rarely came to the attention of the courts. Those few white

women who sought to prosecute white men for sexual assault or rape faced formidable barriers to success. Moreover, rumors of sexual misconduct often swirled around the victims of sexual coercion, casting doubts on their character. A white woman in Virginia walked a legal and social tightrope: successfully prosecuting a white man for sexual coercion was highly unlikely, but taking no legal action could damage her reputation.[3] Moreover, assumptions about the innate promiscuity of white women of the servant or lower classes made prosecution of sexual harms against them extremely difficult to obtain. English print culture reinforced the idea of class-bound promiscuity and relocated it to Virginia: the main character in the *Widow Ranter* is a former indentured servant with enormous carnal appetites, while the sexual exploits of Newgate orphan Moll Flanders are recounted in page after page.

For African American slave women, the situation was, of course, much worse. They could not seek legal redress for sexual violations against them; raping a slave was not a criminal act. They, along with other women of color, were assumed to be licentious and libidinous and were extraordinarily vulnerable to sexual coercion.[4] The early eighteenth-century diaries of William Byrd II, for instance, catalogue his sexual predations toward the unfree women in his household and lodgings. He sometimes tells us that he asked slaves and servant women before he kissed or groped them, but they were not in a position to give meaningful consent and choreographed their responses carefully. On many occasions he recorded these sexual gestures: he "felt" the "wench" who cleaned his room or, along with some militia mates, "gave sport" to an Indian woman, "asked a negro girl to kiss" him, or "played the fool" with his female slaves. All of these acts were raw exercises of his power over these women. Yet at the same time, he whipped his female slaves and servants for "playing the whore" or engaging in apparently consensual sex with other men. He did not hesitate to punish a woman in his household who, he deemed, had been the "whore" of another man.[5] His moral code was clearly relative and was part of his prerogative as master. He pursued slave and servant women, although he often felt guilty for doing so, but also used violence in an attempt to regulate their own sexual activities. Even so, his diaries provide glimpse into the delicate, if extralegal, maneuvers with which slave women fought sexual coercion.[6]

While slave women had no legal recourse for sexual harms, free and indentured white females might, with good reason, feel less than con-

fident in making complaints to the courts when their allegations targeted white men. How might a white woman convince the legal fraternity as well as her neighborhood that she did not freely consent to sexual relations? In her study of British North America, Sharon Block argues that sexual coercion was more than an act of power. Establishing and proving that sexual coercion had occurred depended on who controlled the definition of the act.[7] When a woman stood before the assembled magistrates, juries, and spectators in county courtrooms in colonial Virginia, she could seize the power to define the terms of sexual coercion, simultaneously defending herself and wrestling the meaning of consent away from others. In doing so, she had the opportunity to frame a narrative that would vindicate her. When she took command of the public forum of the courtroom, an admittedly rare event, a white woman could use that forum to her advantage, even against a white man, and control definitions of sexual consent and sexual coercion. Rightly deployed, narrative strategies could help a woman successfully obtain retribution, clear her name, and restore her honor.

In 1662 Ann Collins, an indentured servant, stood before the York County, Virginia, court on the routine charges of fornication and out-of-wedlock pregnancy. Instead of mutely receiving her sentence, as did most women in her situation, Ann Collins spoke out in her own defense. She was at a clear disadvantage in offering her relatively extended confession: she was a servant, pregnant, and unmarried in defiance of the law, perhaps standing in a courtroom full of legal authorities who would judge her and neighbors whose tongues would wag over her sentence. At the very least, she gave her confession to a justice and clerk, by which time her neighbors had already been talking. I believe that it is safe to assume that if Collins was willing to give this confessional narrative in court, she had also given it elsewhere as well. Still, she wanted her listeners to understand how her consent was extracted and why she engaged in the illegal act of sexual intercourse outside of marriage.

Collins presented a narrative of a bad bargain; and in recounting the circumstances under which her sexual consent was obtained, she controlled the terms of the contract and therefore the definition of consent. From her point of view—a viewpoint that she wanted those assembled at court to share—sexual consent was strictly quid pro quo. Ann Collins viewed the exchange between herself and Robert Pierce, her sexual partner, as a more or less contractual one: she consented to

sex, and he consented to free her. More important, her story was framed to show that her consent was obtained by fraudulent means. In other words, Pierce bartered in bad faith. She wanted the court to understand, as she herself did, that this constituted a form of coercion. She framed the story to shift blame from herself to her partner.

Ann Collins's confession was explicit. She began by explaining that she would have never "yeilded" to Pierce's entreaties for sex but eventually was persuaded to do so. Why? To put the matter simply, Pierce made significant promises to Collins. "Hee told mee that hee would free mee from my master whatsoever it would cost him and that hee had stocke Cattle servants and a plantacon and that I should ride his Mare and then your Mistress will thinke much [of you]." Collins constructed herself as open, perhaps even susceptible, to an offer and recounted the terms of the contract made between herself and Pierce. She agreed to sex, and, with a romantic flourish, Pierce agreed to free her "whatsoever it would cost him" and make her rich. While Pierce did not make a clear marriage offer, Collins may well have inferred such a promise or at least felt it expedient that the court should think that she had done so. Her narrative strategy, then, was deployed to illustrate how the two of them struck an agreement. Motivated by a longing for freedom, mobility, and status, Collins thought—and wanted the court to think—that she had traded sex for a better chance.[8]

After noting the terms of the bargain, Collins provided further details that no doubt cemented the perception that she was a victim of sexual coercion. Pierce, it seems, was the only party who had benefited from their contract. She stood before the court unmarried, unfree, and pregnant, while Pierce had only profited from their arrangement. Collins conveyed the one-sided nature of their bargain by offering up the particulars of their sexual relationship. After obtaining her consent, she explained, Pierce took "a bout" with her at "the fireside and sometimes in the tobaccoe house milke house and orchard at spring sometimes 8 or 9 times a day." Her argument was never explicitly stated, yet clearly she used the frequency of intercourse between them as an marker of their intimacy. She had held up her end of the bargain, allowing him to "take a bout" with her whenever and wherever he liked.[9] But where was the marriage, the property that he had promised?

As a servant, unprotected by her own family and surrounded by a master's family with whom apparently she experienced conflict, sex was about the only commodity that Ann Collins possessed. She could,

however, notify the community that she had traded it under false pretences. True, she consented to sexual intercourse under the terms Pierce had offered. Had she known that Pierce would fail to keep his promises, she declared, she would never have "yielded" to his sexual entreaties. Unfortunately, Collins's narrative strategies had no effect on her treatment at the hands of legal authorities. Both Collins and Pierce paid penalties. If she was delivered of a child, she would have been sentenced and her term of indentured servitude extended by two and a half years. Pierce was ordered to answer the York summons and provided a bond of security for his appearance after the child was delivered as well as a bond for his good behavior in the interim. By law, as a free man, he owed five hundred pounds of tobacco for his crime. In June 1662, five months after her first confession before the court, Anne Collins was presented for fornication, and Pierce was released from his bond.[10] She may or may not have delivered a living infant. Although her summons was accompanied by one for "midwives and other evidences," they could have testified even if Collins had miscarried late in pregnancy or the child had not survived delivery. Robert Pierce met the terms of his bond—meaning that he had probably made arrangements with the parish for the child's maintenance, if it survived—and was released from security. In similar instances, Virginia justices followed English legal manuals closely, binding over a reputed father until the child was born and using discretionary powers to obtain its support.[11]

Finally, Ann Collins's narrative also allows us to see how Pierce established mastery over her. He was not her master, but his references to his multiple sources of power—his land, his stock, and, most important, his ability to free her—were the means by which he created opportunities for coercing her. Sharon Block argues that masters used their power over unfree laborers to redefine coercive into consensual sexual relations, and Robert Pierce was surely engaged in a similar act.[12] Just as surely, however, Ann Collins's narrative of consent attempted both to deflect rumors that she was sexually dissolute and project considerable negative weight on the neighborhood's assessment of Pierce. Putting the terms of the consent at the center of her story may have vindicated her in the eyes of her neighbors. She wanted them to know that it was Robert Pierce, rather than she, who bargained in bad faith. And she probably did so in an attempt to pressure him to marry her. Telling her story did not alter the terms of her sentence, nor could it have been expected to do so, but it did allow her to

clarify for her audience the terms under which her consent was given. Despite her legal sentence, Ann Collins might have told her story in order to restore her honor. She no doubt feared local censure for her out-of-wedlock pregnancy; but if she did not come forward on her own behalf, no one else would do so.[13] Besides, in telling her story she had nothing to lose and everything to gain. Ann Collins may have been saddled with her legal sentence, but her narrative illustrated the coercive elements used to obtain her consent, casting greater aspersions upon her partner than on herself.

It was difficult, if not outright impossible, for a pregnant servant to escape punishment in seventeenth- and eighteenth-century Virginia. A free woman might try to do so by marrying, but, particularly before 1660, she might be punished for so doing. By law, however, servants could not marry without the consent of the masters; and even if consent was obtained, it was not likely that the pregnancy would be overlooked.[14] Unlike New Englanders, Virginians showed varying degrees of concern for prosecuting free couples for premarital pregnancy. In colonial York County, for instance, only four couples were prosecuted for premarital fornication and bridal pregnancy, all of them in 1648, suggesting a temporary crackdown.[15] In other Virginia counties, however, such as Norfolk and Northampton, fornication and bridal pregnancy received greater attention as severe infractions and were more frequently punished.[16] Because of the system of indentured servitude, the rates of out-of-wedlock pregnancies in Virginia were higher than those of England and New England.[17]

Few of Virginia's women followed the lead of Ann Collins by giving an account that explained why they had sex outside of marriage. Most of the details of "routine" confession to fornication were not recorded, and her plea may have been extraordinary enough to catch the attention of a clerk. Her strategy did not gain her legal success, of course, because she was a servant. Like most of the women prosecuted for fornication and out-of-wedlock pregnancy in seventeenth-century York, she was prosecuted to the letter of the law. But by the eighteenth century, free women were also prosecuted for fornication; and they developed strategies for avoiding legal prosecution: they left the county. In part, absconding was surely a response to the increased stringency of laws governing interracial pregnancies of white women. Until 1691, women in Virginia faced essentially the same penalties as Ann Collins, but in that year new legislation attempted primarily to prevent interracial sex between white women and men of color. The 1691

law and its 1705 revision stipulated that any English man and woman who intermarried with a "negro, mulatto, or Indian" would be forever banished and punished. A white woman who had an out-of-wedlock child by a free or enslaved black man either paid a sizable fine of fifteen pounds sterling or was sold into servitude for five years.[18] These were hefty penalties; and under the new laws, as Kathleen M. Brown shows, prosecutions of white women who bore children of color jumped from less than 7 percent to a high of 29 percent of all fornication prosecutions in York, Norfolk, and Lancaster counties between 1680 and 1709.[19]

In similar fashion, the number of free women who left Virginia's counties for the term of their pregnancies jumped as well after 1691; and this left local legal officials in a state of consternation.[20] Prosecutions, of course, were not possible unless defendants were present. Leaving the county was a sure means of escaping prosecution, and it became a strategy favored by single free women. In February 1708, for instance, Judith Moody was presented for having an out-of-wedlock child. In March the clerk recorded that Moody "hath absented & gone out of the County therefore ordered that the sheriff of York County (if he can at any time find her in the County) take her into his custody."[21] "French Mary" was presented when she delivered a child in Thomas Sheppard's house but could not be prosecuted because she had "absconded."[22] Unhappily for local sheriffs, York justices relied on traditional English strategies for avoiding such arrears to the parish. When the York sheriff failed to take Barbary Hutton into custody for bastardy in 1707, he had to pay a fine of five hundred pounds of tobacco to the parish.[23]

This action on the part of pregnant fleeing women resulted in a new law, adopted in 1727, which focused exclusively on out-of-wedlock pregnancy and the "divers lewd women" who bore children out of wedlock. According to the statute, these women "oftentimes, before their delivery, absent and remove themselves" from their usual places of abode, leaving their counties and sometimes their colony of residence until after the delivery. Through such action, women "evaded" punishment; and the court's attempts to both punish the women and obtain maintenance from the fathers were "obstructed and prevented." Therefore, the statute stipulated that the fine of five hundred pounds of tobacco could be recovered in any court of record in the colony. Women who failed to pay their fines would be whipped. The law also focused on heads of household, who were henceforth required

to give notice to the churchwardens if any woman delivered an infant in their house. Householders who failed to do so, neglected to keep the woman in their custody, or allowed her to escape were liable for her fine or, if they did not have the money, suffered the whipping in her stead.[24] By laying the responsibility on the shoulders of the mostly white men who headed Virginia's households, legislators were attempting not only to assure the parish of money for the support of the child but also to insure that masters would more assiduously police their household dependents. In a sense, the law reinforced the mastery associated with the head of household, transforming even the lowliest planter into a local legal actor, a sheriff, and a judge as well as a father and a master.[25]

It did not lye under the [circum]stances of a rape.

CHARLES HANSFORD,
grand juror (1692)

What were a woman's choices when she was a victim of direct sexual assault or rape? In Virginia and Maryland, English law was adopted without change; and although laws governing rape received revision in some New England colonies, rape remained a capital crime in the Chesapeake for the colonial period.[26] It was also a felony that did not attach benefit of clergy.[27] Because conviction meant death, the rights of white defendants were vigorously protected. Their cases were remanded up to the General Court, the highest court in the colony, where a grand jury first decided whether or not sufficient evidence existed to proceed to trial. If so, juries at trial were required to reach unanimous verdicts.[28] For black defendants the situation was quite different. After 1692, Virginia's lower courts of oyer and terminer, where procedures and standards of evidence were much less rigorous, tried slave defendants. The more summary and racialized justice in those lower courts meant that convictions were much more likely.[29] It remained the rare woman who could obtain a conviction for rape or attempted rape against a white man in Virginia's General Court.

Given the fact that obtaining a conviction for sexual assault was unlikely in seventeenth-century Virginia, who might best be able to obtain one? In the seventeenth century, Puritan jurists in New England relied on the veracity of women's words; and nearly all women entering legal complaints of sexual assault gained conviction in sev-

enteenth-century Connecticut. Puritans assumed that men had a "proclivity for lying"; and women, despite some shady personal histories, were often (though not exclusively) believed when they claimed that they had been sexually violated—*if* they had reported the assault to their families and, more especially, *if* magistrates defined the assaults as interracial and therefore coercive.[30] Virginia's magistrates did not echo this trend. Rather than rely on the truth of a woman's word, justices in the Chesapeake region tended to doubt it except when her assailant was black.[31] Women who sought to bring charges of rape or sexual assault had to circumvent the authority of local legal actors, who appear to have been extremely reluctant to act on their complaints. Moreover, no Indian or black woman in Virginia, slave or free, brought charges of rape or attempted rape until the late eighteenth century.[32] The race of both alleged victims and assailants were of supreme importance in gaining rape convictions in early Virginia.

Since most of the records of Virginia's superior court, the General Court, for the colonial period are lost, we cannot know the precise number of rape convictions that were attempted or obtained.[33] Extant records, however, reveal that there were no successful prosecutions for rape or attempted rape in Virginia's General Court prior to 1670. Brown finds that at least one woman obtained a successful conviction for the lesser charge at the county level.[34] All told, then, convictions of white men for rape or the lesser charge of attempted rape were comparatively rare in colonial Virginia. Nevertheless, because the rate of violent crime, including rape, in the colony was certainly no lower than England's, it is essential to recognize that incidents of rape or sexual coercion went largely unreported.

White women had good reasons to feel hesitant about accusing a white man of rape. Making such a charge, as Block demonstrates, was risky: women could lose their standing in the community or suffer punishment or reprisals.[35] Did a woman have any alternatives? Were there means, other than direct accusation, that women might employ to vindicate their reputations and restore their honor? The case of Elizabeth Hansford Burt demonstrates one woman's strategy to control the terms of sexual coercion and define the act of rape.[36]

In the early 1690s, Elizabeth Hansford Burt was at the center of two controversies in her York County, Virginia, neighborhood. Elizabeth was married to Richard Burt, a man of apparently middling status and good reputation, who occasionally was paid by the county for capturing runaways and served as a juror for York County.[37] The couple had

at least one child. In the first controversy Richard and Elizabeth were sued for trespass. The suit claimed that Elizabeth did "violently assault, bruise, and beat" Mary Peeters, perhaps causing her to miscarry. The jury concurred with the plaintiff, and the Burts were ordered to pay one hundred pounds of tobacco in damages—far less than the damages sought by the Peeters, who asked for five thousand pounds.[38]

The second controversy began on 24 August 1692, when Richard and Elizabeth Burt attended the York County court, although neither had any apparent business there. After court, they retired to the French ordinary, where they sat drinking with one of their neighbors, John Eaton. Eaton, like Richard Burt, also captured runaways for the county; and he had been appointed as a juror for York in May 1692, when Richard Burt was discharged. Moreover, he served as a juror in the trespass suit brought by the Peeters against the Burts. The night wore on, and Elizabeth complained that it was late and that she "did not well know how to goe home with her childe." Eaton offered to carry them home on his horse, so "at the stocks" Eaton hoisted her and her child up behind him. According to Elizabeth, however, what began as a ride through the Virginia night ended up as a rape. She claimed that John Eaton "ravished her upon the road," despite her screams and protests, while she held fast to her child.[39]

The exchange two days later between Burt and her uncle, Captain Charles Hansford, reveals the difficulties women faced in successfully prosecuting rape and especially their struggles over persuading authorities that sex without consent occurred. Mary Beth Norton suggests that few married women made charges of rape in the colonial period, probably because they believed that courts would treat their claims with "considerable skepticism." Elizabeth Burt's story certainly bears out her theory.[40] Burt went to see Captain Hansford, not because he was her uncle but because he was a York County magistrate. She directly asked him for a "warrant" for John Eaton. His skepticism was immediately apparent in his reply: "Fy Betty, as soon as you are out of one troublesum busines to goe into an other," clearly a reference to the July trespass suit. Hansford's deposition reveals that, at several successive points, he attempted to deter her; but she would not be deflected. After she asked for a warrant, Hansford requested that she clarify "the matter with you and John Eaton." At this point, she had asked for a warrant but had not specified its charge. Hansford deposed to the court that he had had a cold and was "something thick of hearing" but, "as near" as he could "apprehend" it, Elizabeth Burt

had said that John Eaton "would have laine with her a coming from Court." Attempting to define the terms of the act, the magistrate suggested that Eaton "did not intend itt, though he profered itt." In other words, Burt claimed that Eaton had physically raped her, but Hansford suggested that Eaton had simply made an offer of sex. Burt had defined a rape, but Hansford's redefinition effectively decriminalized the act. Yet Elizabeth Burt stood firm, replying that "indeed [Eaton] did do itt" and that she would swear an oath to it. Swearing an oath was a serious matter: it meant that she was willing to stake her reputation on this claim or risk perjury charges for being forsworn.[41]

Further exchanges between Elizabeth Burt and Charles Hansford reveal how issues of physical strength, force, and protest were key elements of legal and cultural definitions of nonconsensual sex. Certainly Elizabeth Burt understood this. Without any prompting from the magistrate, she declared that she was "not of a man's strength and he did force me." Hansford replied that he "thought such a thing could not possibly be for shee was near as strong as John Eaton and that he could not doe itt except shee was willing." They struggled over this element, and Burt reiterated her claim that Eaton "did do it against her will." They would return to the issue of force before their conversation ended.[42]

At this point, however, Hansford switched gears, focusing first on the element of verbal protest and second on the presence of witnesses. Both were crucial elements in defining sex without consent in early America.[43] Why did she not "hollow out"? She claimed that she did "hollow" two or three times. Was there no "company neare"? Where was her husband? She replied that he was a good way behind. How did it "come to passe" that she was with John Eaton? Here, the magistrate voiced suspicion, one that would be shared by members of the community, about a wife traveling with a man who was not her husband after a night of drinking. She answered that Eaton had offered to carry her home on his horse. If Hansford was attempting to dissuade her from filing a warrant, he thus far had failed to do so. Burt's answers consistently defined the act as rape: she was forced, she cried out, and the act occurred in an area remote from other witnesses. Again, the magistrate switched tactics. Stymied by her responses, unable to position her story outside definitions of rape, he returned to the issue of physical force.[44]

Captain Hansford asked for more specific details of the act of rape itself. Had Eaton tied her? Did he throw her down? What had she done

with her child? She replied that Eaton had not tied her but "threw her on her knees but shee recover'd again and he did itt standing." A few days later, when Burt told her story to Elizabeth Buce, the same woman who had offered a damning deposition against Burt in the Peeters trespass case, she revealed more particulars about physical force. She disclosed that Eaton clapt one hand "about the small of her back" and with the other "held up her cloaths." Eaton importuned her to lie down but Burt would not; instead, she "cryed out and called to her husband twice." "Wrenching her thighs asunder with his knees," Eaton proceeded with the rape, while Elizabeth struggled and held fast to her child.[45] All of the elements of a rape definition are present in Burt's story, but the details of physical force would have been the most persuasive to an early American jury. It is puzzling, then, that Hansford ultimately concluded that Burt's story "did not lye under the [circum]stances of a rape" and refused to grant her warrant. He cautioned her to say nothing about the event.

On the surface, Hansford's stance is curious. He asked for details that are key elements in early modern definitions of rape, and Elizabeth Burt supplied them. Yet he refused to grant a warrant. Why? Burt was suspect because of her encounter with Mary Peeters.[46] She was angered by Peeters's remark about Burt's father, a follower of Nathaniel Bacon's who was executed by Governor Berkeley after Bacon's Rebellion. She struck Peeters in the face, beat and scratched her, and finally threw her against a bedstead. Peeters claimed that the beating caused a miscarriage.[47] Since all of those details had been disclosed at a trial only a month earlier, perhaps Hansford thought that Burt would lack credibility before a jury and so refused the warrant.

In addition, Hansford, like other county magistrates, denied or delayed executing warrants after hearing complaints.[48] One suspects that in seventeenth-century Virginia, where prosecutions for rape as well as for petty, capital, or felonious crimes were rare, the refusal of a magistrate to sign a warrant would have put an end to any hope for conviction and vindication. It is likely that in the face of a magistrate's refusal, many women would shrink from further legal action. Only the most persistent of women—and men, for that matter—succeeded in getting themselves heard in the forum of the court. Elizabeth Burt was one such woman.

Captain Hansford may have refused her warrant, but Burt never wavered from her assertion that she been raped. Moreover, she wanted that fact to be acknowledged in a public forum. When Captain Hans-

ford told Burt that she could not have been raped unless she was willing, she fired back that "if such things be suffered shee should be counted John Eaton's whore." The damage to her reputation was unacceptable to her, so she sought the restitution of her honor. Her strategy, initially, was to tell her neighbors about the rape. In addition to Captain Hansford, she certainly repeated the story to Elizabeth Buce and John Buce, Sr.; and she appears to have told the story to others as well.[49]

In early colonial Virginia, as in early modern culture in general, women's gossip and their ability to circulate stories about themselves and their neighbors were means of exercising power in a society in which they had little access to institutionalized sources of power. The restrictions of coverture were great: once married, women were civilly dead, although, as we have seen, not when they committed crimes. It goes almost without saying that women could not vote, hold public office, or have access to formalized structures of power within early American communities. But they could, and did, gossip. "Reputations," as Norton has argued, "were sustained and lost in the early colonies primarily through gossip"; and women were "major wielders of gossip."[50] If Elizabeth Burt was publicly counted as "John Eaton's whore," then she would be a target of gossip. If she could channel the talk, however, she might redefine the act as a coercive one and thereby restore her reputation. Captain Hansford may have had some sense of this when he urged her to "be sure to say noe more of itt."[51] Not only did he wrangle with her over the definition of rape, but he also wanted her account of it censored.

More was at stake here. Captain Hansford understood the power of gossip in Virginia neighborhoods. That is why he paid a visit to John Eaton the day after he denied Elizabeth Burt's request for a warrant and told her to "say noe more of itt." He vaguely mentioned to Eaton that he was "sorry to hear what" he had heard of him. Eaton wanted to know what the magistrate meant. Assuming his role as justice and inquisitor, Hansford directly asked, "What did [you] to Betty Burt acoming from Court?" "Nothing," was Eaton's response. Hansford then told Eaton that Burt would swear a rape against him, and Eaton panicked. "By God," he lamented, "shee will undoe me then." He confessed to Hansford that he had put his hand up her coates "as high as her knees," but he did not know whether "she be man or woman." There is no evidence to suggest that the men conversed further.[52]

John Eaton then devised a strategy of his own: he decided to file a

defamation suit against Richard and Elizabeth Burt in order to quell her gossip. Eaton had a fair amount of experience at the local court. He had successfully prosecuted cases; served on five juries, including the one that decided *Peeters v. Burt;* and recently had been appointed as a grand juror.[53] He also had some contact with a lawyer and may have consulted with him on this matter.[54] The odds of succeeding against the Burts must have seemed good to him, particularly when weighed against the unwelcome possibility of standing as a defendant in a rape trial. Because Elizabeth Burt accused him of committing a crime, Eaton did have a suitable case for a defamation suit according to the terms of English law.[55] Still, it was a risk: she would be exonerated if she could convince the jury that the words she spoke were true. If he took no action, however, the accusation of rape, even if it remained in the realm of gossip, would seriously damage his reputation. Defending one's honor and reputation were at the center of defamation cases.[56]

On 26 September 1692, Eaton's defamation suit against the Burts was tried by a jury in the York County court. His suit alleged that "ever since 24 August last past," Elizabeth Burt "from time to time hath most malitiously and falsely defamed" him by "publishing and declareing amongst her neighbors and others that Eaton by force and violence . . . ravisht her . . . as she was returning home." In part, the words of the suit were formulaic.[57] Yet someone had been talking—most likely Elizabeth herself. John Buce testified that he went to see the Burts on 26 August (two days after the alleged rape and the same day that Elizabeth Burt went to Captain Hansford for a warrant) because he had heard "news," including the "strange news" that John Eaton had "lay" with Elizabeth Burt "the other night comeing from Court." Elizabeth answered that it was "very true, soe he did."[58] It is impossible to know whether Burt's visit to Captain Hansford occurred before or after she spoke to the Buces, but clearly the neighborhood was buzzing about the story.

When it came time to try Eaton's suit, a jury was impaneled, and the charges against Burt were read. When asked for her plea, she replied, "Not guilty." She waited until all of Eaton's evidence had been presented and sworn and then, "in open Court before the jury att the barr," offered her defense. She did "possatively owne and declare" that Eaton had "offered much rudenes to her with diverse perswasions to lett him ly with her, and that shee called out but yett nevertheless the plaintiff by striveing and compultion had the use of her body as she

stood upright with her child in her armes." The clerk noted that she tendered her oath "severall times" to confirm the truth of her words.[59]

The jury found for Burt and dismissed the suit. They offered no damage awards to the Burts, however, unlike other defamation suits won by defendants in the York County court.[60] Elizabeth Burt was vindicated, but the lack of damages as well as the fact that Richard Burt did not press further charges of rape on behalf of his wife suggest that the jury's attitude was tepid.[61] To the extent that rape was not just a physical assault but also, and equally important, a blow to the honor of the woman and her family, husbands could and did retaliate by pressing further suits or even by divorcing their wives.[62] Richard Burt appears not to have needed vindication; perhaps he felt it was better to leave the matter where it stood. Elizabeth Burt, for her part, bested her opponent and must have felt some satisfaction when the jury's verdict stood with her. John Eaton's service on York juries slowed considerably. Although he had served on five juries before bringing charges against the Burts, he served on only one jury in the following year.[63]

Convicting a white man for rape would remain, in the eighteenth century, at least as difficult. As the century advanced, obtaining convictions for rape came to depend on the race, class, and reputations of alleged victims and accusers as well as on jurisdictional and procedural changes in legal culture. Rape convictions were most likely to be obtained by white women against black men: of eighteen known black men accused of rape before the local and general courts in Virginia, twelve (66 percent) were executed.[64] That number climbed as high as 84 percent in the antebellum era.[65] Similarly, in eighteenth-century New Haven, men charged with rape had an outsider status: of the twenty men charged with rape, six were slaves, one was an Indian, and one a free black. White defendants included a French soldier, a British deserter, and a vagrant. Three of the slaves, the free black, the soldier, and the deserter were convicted: the seven white defendants who resided in Connecticut towns were either acquitted or dismissed.[66] Overall, in colonial America and the early United States, black men were three-and-a-half times more likely to be executed for rape than were their white counterparts.[67]

At the same time, the factors that made prosecuting rape so difficult for Elizabeth Burt remained largely unchanged in eighteenth-century Virginia. As in other colonies, the accuser's social standing, evidence of prior sexual activity, out-of-wedlock pregnancy, or rep-

utation for promiscuity played significant roles in establishing her credibility and shaped rape convictions.[68] Taken in this light, Burt's strategy is all the more remarkable. She had a reputation for violence and troublemaking; she took the suspicious step of leaving an ordinary, somewhat in her cups, with a man other than her husband. Those facts alone were enough to stymie further official inquiries on the part of the local grand juryman to whom she took her complaint. She clearly apprehended his lack of cooperation and found a strategy for vindicating her honor. Rather than directly charge Eaton with rape, she became a brabbling woman and forced him to defend himself against the power of her disorderly speech.

Local Legal Actors and Women's Voices

Elizabeth Burt and Ann Collins managed extraordinary feats in the legal climate of seventeenth-century Virginia. Standing as defendants, both women used the occasion of a legal suit to offer narratives about sexual consent and coercion. Had they opted for a more direct prosecution of the grievances, they had little hope for redressing their complaints. In order to succeed in vindicating their reputations and restoring their honor, they had to "owne," as Elizabeth Burt put it, the terms of sexual consent and coercion. By putting these matters at the heart of their stories, both women constructed dramas of dependency, subjugation, and victimization that conformed to culturally condoned notions of ideal women. Ironically, telling their stories in front of a justice or before the full court gave them a cultural agency that they otherwise did not possess.[69] They were on shaky ground, but both women seem to have understood the legal system well enough to proceed with confidence. Court days doubled as social gatherings in the early Chesapeake—recall that Elizabeth Burt attended court with no apparent legal business at hand on the day that the alleged rape occurred—and provided women with opportunities to observe the court at work.[70] Both Collins and Burt seem to have used their observations of the local legal system as well as their understanding of community networks to frame their pleas. Placing their own narratives at center stage gave them the power to define sexual consent and coercion in a hostile legal system. In doing so, they recouped their reputations against potential losses.

In contrast, slave women and free women of color had to maneuver around aggressive masters to escape sexual assault. William Byrd's diaries indicate both his pursuit of the servant and slave women in his

household and their resistance to his advances. For instance, one servant women whom Byrd regularly sought out while in his seventies could not always be "prevailed" on to come to bed with him and managed to arrest his advances at points short of intercourse. Similarly, he tells us that a young slave girl "resisted" his advances, suggesting that she found ways to temporize or delay despite the fact that Byrd was her master.[71] How might she have done so? The enslaved Harriet Jacobs relates a veritable battery of tactical maneuvers she employed to evade her master's coercive advances. She avoided being alone with him, escaped his presence, and chose another sexual partner to discourage him. At her most extreme, she pretended to run away and hid in her grandmother's attic. Moreover, because masters feared dishonor if their sexual relations with their slaves became public knowledge, slave women held some power in their ability to disclose events. For instance, Block skillfully demonstrates that the speech of Harriet Jacobs was of great import to her master; he attempted to silence her, threatening to kill her if she told anyone of his behavior. He feared for his public image, but her ability to shame him was a weapon in her arsenal. Indeed, she told her closest relatives: the slave community was aware of the abuse. Although limited in their ability to stop it, they did help her hide for seven years.[72] Given extremely limited options, slave women relied on ingenuity to avoid coercive sex.

The stories of Collins and Burt reflect the powerful but often overlooked role played by local legal actors in allowing white women's voices to be heard in colonial courtrooms. County magistrates, grand jurymen, and churchwardens were gatekeepers of presentments and prosecutions, although in theory any member of a community might inform the county court of a crime or breach of the civil order.[73] In colonial York County, for instance, the bulk of fornication presentments, like the one that led to Ann Collins's extended confession, were made by churchwardens and masters of pregnant servants. The law directed churchwardens to make presentments for many other moral offenses—adultery, swearing, drunkenness, slander, and church absence. In the seventeenth century, however, the vast majority of their presentments were for fornication.[74] Although they ignored virtually all other morals violations, local legal actors did not hesitate when it came to out-of-wedlock pregnancy. The parish benefited since the presented woman was required to name the father of her child, who was liable for parish payments. Masters benefited by gaining an extra two or two-and-a-half years service from these women. Such pre-

sentments worked in the interest of legal officers and masters. Even so, as Ann Collins's story demonstrates, if women could not successfully fight the presentments, they could seize the opportunity to tell their side of the story and perhaps redeem their reputations.

When it came to prosecuting crimes against women (as opposed to women's crimes), however, the grand jury was supposed to be in charge of indicting alleged criminals. The law directed them to attend to any "breach of all penal laws and other crimes and misdemeanors not touching life or member," and in 1696 they began make presentments for morals violations as well.[75] The grand jurors in seventeenth-century York County were not only tremendously negligent in their duties but showed an outright reluctance to follow up on complaints by women. Nor, as we shall see, were they any more responsive to the complaints brought to them by men. In one sense, they had little reason to be responsive. Before Bacon's Rebellion, no fines or punishments were incurred for failing to answer a grand jury summons or to convene grand juries. Local context shaped the effectiveness of grand juries: in both colonial New Haven and the Delaware Valley, grand juries were much more active than their Virginia counterparts, who remained strangely reluctant to assume their duties through the end of the seventeenth century.[76]

Virginia's burgesses turned the screws on grand juries after Bacon's Rebellion. In 1677 they passed a law fining courts that failed to impanel grand juries and jurors who absented themselves from duty.[77] Coming as it did in the fallout of the rebellion, this legislation suggests that burgesses were interested in controlling small contempts in the hope of avoiding larger ones. Grand jury duty, potentially, could knit together small planters: keeping the county's roads open served a practical purpose and enforcing church attendance meant that residents experienced the deference and hierarchy of the Anglican church and provided a means to punish dissenters. Moreover, through stints as grand jurors and churchwardens, freeholders policed one another with regard to drunkenness, swearing, and tax violations.

The wheels of justice, however, were grinding slowly when Elizabeth Burt visited grand juryman Captain Hansford in 1692. By the mid-1680s, three men in York were presented for failure to serve on the grand jury, as was a justice of the quorum who failed to attend court. During the last decade of the century, ten men were presented for failure to report to grand jury duty. In the York County order book, the latter entry was followed by the justices' order to the sheriff to

"take care to see that the stockes and pillory bee made good and substantiall between this and the next court."[78] This was a dire warning indeed to prospective jurors who might consider absenting themselves from a summons. It seems to have worked: by the early eighteenth century, compliance was fairly full, and periodically the grand jury presented a number of individuals for all manner of property, morals, and tax violations.[79] York men seemed to have become convinced of the benefits of jury service and the nominal status it conferred by confirming them as one of the "governors" of their locality.[80] Service also gave jurors the power to force their peers, through relatively painless penalties, into compliance with neighborhood values. They did not, however, increase their indictments for crimes against women.

It would be wrong, of course, to conclude that sexual violence was therefore rare in colonial Virginia. Virginia's emerging slave society was one in which sexual coercion, dismemberment, and violence against women and men of color was regular, tolerated, and, for the most part, legal. In this culture, all acts of violence could potentially be privatized, and legal recourse was limited by the race and rank of the victim and perpetrator. Moreover, rape and sexual coercion, as both the narratives of Ann Collins and Elizabeth Burt and the diaries of planters tell us, could be sheltered in small and large rural plantation households—along a roadside, inside a bedchamber, beside a well, or beneath a tree. These acts, as we have also seen, were not expressly shielded from the knowledge of neighbors and friends; but in the Chesapeake, as opposed to other colonies, those neighbors and friends often remained passive witnesses rather than active informants. The legal fraternity's attention to women's transgressions and their inattention to harms against women were enormously successful in silencing women's speech on perilous subjects. Justices, church-wardens, and grand jurors made sure that masters performed their obligations and duties to the county and otherwise stayed out of their households.

By the late seventeenth century, when the York grand jury began to function as the "legal conscience" of the county, the scope of that conscience did not extend to crimes against white women except when they were the alleged victims of black or Indian men. In other words, streamlining the legal machinery of the county did not work to the advantage of white women who had experienced sexual coercion from white men.[81] Only those most persistent and vocal—only the most brabbling of women—succeeded in getting their complaints heard.

This was true not only in cases of sexual coercion but also, as we shall see, in episodes of household violence. In York, as elsewhere in the early modern world, grand juries were hindered by three things: "the fear to offend great men our superiors"; "favors and affection towards our friends and neighbors"; and "foolish pity extended where not deserved."[82] Foolish pity was not a commodity familiar to York County's legal fraternity in the seventeenth century. To the contrary, the cases of Ann Collins and Elizabeth Burt demonstrate that it was not readily extended to women who complained of sexual harms.

3 Unwifely Speeches and the Authority of Husbands

"May Wrath Divine then lay those Regions wast[e]
Where no Man's Faithful, nor a Woman chast[e]."*
**The Author does not intend by this, any of the*
English Gentlemen Resident [in the Chesapeake]."

EBENEZER COOKE,
The Maryland Muse (1708)

ACCORDING TO POPULAR print culture, the Chesapeake had a healthy population of sexually transgressive women. Daniel Defoe's five-times married Moll Flanders (1722), a prostitute, bigamist, and pickpocket, was transported to Virginia for her crimes; and Aphra Behn's Widow Ranter (ca. 1690) began life in the colony as an indentured servant, married a planter, inherited his fortune, and openly pursued men younger than herself. The verses of Ebenezer Cooke's *The Maryland Muse* (1708) memorialized a variety of sexually dissolute women, including "wives and widows" who were well pleased with the "tawny Thighs," "bosom bare," and "manly shoulders" of a local Maryland Indian. *The Fortunate Transport* (ca. 1741–42) relates the story of Polly Haycock, yet another indentured servant shipped to Virginia, who successfully employed her libidinous sexual prowess in an effort to marry up in the world. According to these representations, sexually aggressive women were easily found and, more important, generally tolerated in the early Chesapeake.[1]

Official forbearance of certain types of sexual transgressions differed sharply from the portraits of these printed representations. Virginia's local church and legal officials rarely tolerated out-of-wedlock pregnancy or interracial liaisons between white women and men of color. Adultery, on the other hand, seemed to be well below the gaze of the colony's legal fraternity. Indeed, grand jurymen, churchwardens, magistrates, and even watchful neighbors were largely unwilling to meddle in matters of apparently consensual sexual relations

between free white Virginians, married or not, as long as pregnancy did not result. This relative indulgence of extramarital sexual activity, however, was interrupted in the early 1690s in York County, when episodes of adultery riveted the attention of the local neighborhood and legal fraternity. Each episode was extraordinary in its own way: a servant sued his former master for adultery and won civil damages, a cuckolded husband claimed that his wife had attempted to strangle him, and a wronged wife imagined seducing her husband's married female lover. What pushed these particular sexual infractions into the legal arena when other similar incidents had apparently gone unheeded by the court for most of its existence?

To a large extent, responsibility for propelling these episodes of adultery through the York courthouse door rested with two brabbling wives. This chapter explores how both women deployed considerable verbal invective and extraordinarily unruly speech, each in an effort to exert power in her marriage and, in the process, master her husband. On the surface, these women occupied antithetical positions. The outspoken Elizabeth Slate declared her right to take a lover and openly defied her husband's authority as well as the law. The contentious speech of Joanna Delony, on the other hand, aimed to vilify her husband's lover and, at the same time, shame her husband into honoring their marriage. Yet despite these seemingly different positions, both women verbally resisted their conditions, refusing to passively accept their roles as subordinated wives. Slate and Delony were quintessential disorderly women, active agents who, through ungoverned speech, asserted their autonomy and attempted to repress their adversaries.

Their ungoverned speech allowed them to assume powers that in theory and practice were supposed to belong to free Anglo-Virginian men. Because of this, both women explicitly—and with significant consequences—challenged fundamental assumptions about early modern Anglo-American gender roles and basic tenets of domestic patriarchy. Elizabeth Slate claimed the power of mastery not simply by engaging in an adulterous affair but by verbally boasting that her husband would not "controle" her. By early modern standards, wife adultery in particular was accounted as a serious moral and legal breach; and Slate's words openly violated cultural values of wifely submission. In the process, they also shamed her husband, making him the antithesis of husband and master. Joanna Delony even more explicitly laid claim to the power of a free man. She verbally fantasized about

cross-dressing: she spoke of impersonating a man, seducing her husband's lover, and exposing the latter's infidelities to her husband. In effect, Delony sought to control her husband's sexual proclivities; but in the process, as we shall see, she also cuckolded another man. The words of these women flagrantly challenged the authority of husbands, the mastery of free white men, and cultural ideologies of women's dependency within and outside of marriage. Neither of these women would have been designated as "good wives."[2]

The unruly words of Elizabeth Slate and Joanna Delony were themselves dangerously significant to those around them, but to a certain extent the harmfulness of their words depended upon the geography of their unruly speeches. In 1691, Slate was at her most brabbling with neighbors and friends in York County's households or tobacco fields, far away from the strictures of public assemblies or the confines of the local church or court. Three years later Joanna Delony used her considerable powers of speech indoors and out, accusing her husband's lover of incest, miscegenation, and abortion in the presence of neighbors, servants, and, perhaps most damagingly, since one witness specifically remembered it, within the hearing of a "negro boy."[3] Like Slate, the geography of Delony's speeches—words uttered in houses, fields, and roadsides—did not render her actions private in any modern sense or make them invisible to those around them. On the contrary, the unruly words of both women were audible to the "informal public" of their local community.[4] Indeed, the neighborhood heard, remembered, and, when required to do so, repeated those ungoverned remarks to the York County, Virginia, justices. The justices themselves exhibited a strong curiosity about where these remarks occurred and prompted witnesses, in some cases, to name the site of disorderly speech. Disorderly speech of women, then, was determined in part by the physical context of their words.

The stories of Elizabeth Slate and Joanna Delony also illustrate how, despite formidable odds, wives might exert extralegal means to attempt to control the terms of their marriages. Nevertheless, the shocking speeches that so awed, and probably entertained, neighbors, servants, and slaves in York's households, fields, and roadsides became distinct legal liabilities once they reached the ears of the justices and jurors in the county's court. As we have seen, other women in early Virginia sometimes successfully brokered public and legal venues: Lady Frances Berkeley wielded power alongside her husband, and Elizabeth Burt convinced a somewhat reluctant jury that she had been

raped. The verbal transgressions of Slate and Delony, however, could not go unrepressed by the court because they threatened the reputations of free white men. Not only had these women asserted a right to act as men, but they also directly assaulted the honor of men, made them cuckolds, and thereby reversed traditional understandings of household governance. This was a serious overstep on the part of a wife. Justices understood that even "little monarchies" such as households revolved around the idea that inferiors extended deference and obedience to their superiors, who in return provided care and protection for their dependents.[5] A brabbling wife, not to mention an adulterous wife or one who imagined herself to be a man, directly affronted this hierarchy. Husbands were supposed to be sovereign in the household. Since a husband represented the first line of defense in colonial political authority, defying him was a political act: it challenged the authority of the household and, by extension, the law and the king's peace.[6] Given these prevailing notions of power, justices and juries found it nearly impossible to take lightly the disorderly speech of these wives and worked to restore the authority of husbands in their respective households. In the process, as justices and husbands no doubt hoped, the ungoverned tongues of these disorderly women would be silenced.

The unruly speeches of Elizabeth Slate and Joanna Delony gave them power in the extralegal realm alone. It seems fitting, then, that their words crossed the transom of the York County court while they themselves apparently did not. Their words mattered: the resulting cases, *Hill v. Slate* (1692) and *Hide v. Delony* (1694) were tried as defamation suits. Neither party on either side of either suit was formally charged with adultery. Instead, in both cases, a defamation action served as the legal vehicle for resolving the more nettlesome conflicts over adultery. These women's words intersected with changing legal approaches to adultery in Virginia, where, as in England, adultery was viewed as an injury to a husband's property rights over the body of his wife. Despite the fact that the juries in both cases were deciding defamation suits, they weighed the insubordination of wives against husbands' rights and the prerogatives of masters.

Outside of court, Slate's and Delony's disorderly speeches gave them an agency that might have allowed them to broker their positions within their marriages, shame their enemies, and even challenge their husbands. In court, however, their words and voices emerge from the testimony of other witnesses, some of whom gave *viva voce* tes-

timony while others "spoke" though written depositions. Effectively, this cacophony of others—witnesses, magistrates, clerks—filtered the voices of the brabbling women. As the legal actors recalled the voices of Slate and Delony, they injected elements of hyperbole and melodrama into those ungoverned speeches, unruly words, and unwifely narratives. Several depositions collectively constructed Elizabeth Slate as a woman who not only voiced a desire for an independence that was antithetical to wifely submission but one who was also pregnant with her lover's child and had, conspiring with her lover and her mother, allegedly attempted to kill her husband. Similarly, witnesses related Joanna Delony's violent invectives, repeated her threats to give her adversary a "whore's mark," and recounted her several accusations of sexual impropriety as well as her allegation of attempted spousal murder. Such coherently structured stories no doubt reflected real events and real words; but more important, these collectively established narratives delivered familiar moral lessons about the dangers of female misrule and the importance of male mastery within households. The ungoverned speech of Slate and Delony reflected badly on their husbands' ability to control their households. The York court, hearing all of this testimony, did not hesitate to punish both wives, thereby hoping to set these households in order. Still, as we shall see, the aim of the court to quell the ungoverned speech of these two brabbling wives met with rather uneven success.

Legal and Cultural Meanings of Adultery

In early modern England and the North American colonies, adultery did not apply to men and women equally. Wife adultery was understood to be a more serious breach of the law than the corresponding act by husbands because it created the possibility that offspring were not legitimate heirs and, worse, interfered with hereditary descent by potentially diverting property away from biological sons.[7] Over the course of the sixteenth and seventeenth centuries, the legal jurisdiction over adultery in England shifted from the ecclesiastical to secular courts; and correspondingly, adultery was seen less as a crime of morality requiring penance and more as a property violation for which a husband might obtain damages.[8] To a certain extent, this had always been the case, but changes in adultery litigation in the seventeenth century made common-law remedies more easily obtainable.[9] This was not simply a change in jurisdiction. The shift toward civil litigation exaggerated the double standard of sexual behavior because it em-

braced the rights of husbands to absolute possession over the bodies of their wives while conferring on wives no similar rights.[10] Given their drive to institutionalize the mastery of English and native-born planters and enlarge their powers over the unfree bodies of slaves, it is easy to understand why Virginia's legal fraternity would embrace and perhaps welcome this ideology.[11]

Virginia's earliest statutes treated adultery as a serious transgression. In contrast to Massachusetts, New Haven, Plymouth, and Connecticut, however, Virginia's lawmakers never cast adultery as a capital crime or addressed it as the single subject of a statute.[12] Instead, Virginians grouped adultery with a variety of morals violations: a 1642 statute categorized adultery as a "high and foule offense" akin to fornication or prostitution, distinguishing it from "misdemeanors" such as swearing and blasphemy or "loathsome sinnes" such as drunkenness.[13] Since Virginia had no church courts, parish churchwardens had the responsibility for making presentments for moral and sexual violations in the colony's county courts, despite the fact that the earliest statutes established no clear punishment for adultery.[14] Virginians nonetheless followed the lead of English ecclesiastical courts and punished adultery by rituals of penance, usually standing in a white sheet in church or court to publicly signify shame and symbolically purify an offender upon reentry to the church.[15] In 1641 in Accomack County, for instance, Elizabeth Storkey was punished for adultery with twenty lashes, although apparently the vestry had ordered that she also do penance by standing in a white sheet in church. Three years later, Richard Jones and Mary West were presented for adultery and convicted on the oaths of two witnesses, although the exact nature of their punishment was not specified.[16]

Statutes enacted in 1691 and 1696 in Virginia dropped the stronger language of earlier laws, opting to categorize adultery as a sin no different from the offenses of swearing, cursing, blasphemy, and fornication.[17] The penalties for adultery stiffened, however: the twenty pounds sterling or thirty lashes in the 1691 statute was revised to one thousand pounds of tobacco or twenty-five lashes by the terms enacted in 1696. Overall, Virginia's treatment of adultery in the seventeenth century sharply differed from that of New England. Relative to their northern neighbors, Virginians were unconcerned about sexual dalliances between consenting married adults; and prosecutions for adultery were quite rare in the colonial period. In York County, for instance, churchwardens and grand jurymen made five presentments for

adultery between 1640 and 1740: three couples, one man, and one woman.[18] Similar low numbers were found in Maryland, with Charles City County and the provincial courts making one and six adultery presentments respectively between 1637 and 1675.[19] In contrast, in Connecticut a total of twelve individuals and couples were punished for adultery or adulterous carriage between 1666 and 1710, while nineteen were similarly prosecuted between 1711 and 1790, although only six individuals were actually convicted.[20] Although adultery was for a time defined as a capital offense in New England, the courts rarely applied the death penalty to adulterers. Instead, they reduced charges to the lesser infractions of "suspittion of Incontinency," "lacivious carriage," or "uncleanness" and relied on punishments, some of which resembled those employed by Virginians, such as public shaming and whipping, and some, such as banishment, that were unique to the north.[21]

Following the lead of England's secular courts, after the mid-seventeenth century adultery litigation in Virginia became more sharply focused around the rights of husbands over the bodies of their wives. Wife adultery was increasingly understood as not only a sin but, more important, a violation of husbands' property rights.[22] Interestingly, the revisions in English legal understandings of adultery were largely based on the law of masters and servants. For instance, by the mid-sixteenth century, it was possible for a master to sue an individual who had detained his or her servant for loss of services, either through an action of trespass, which had to demonstrate force, or through an action on the case, which established indirect injury. By the early seventeenth century, courts extended this logic to husbands and allowed them to bring suits against their wives' lovers for indirect injuries caused by a loss of consortium.[23] In order to obtain damages for their injuries, husbands favored civil litigation such as trespass, which had to charge direct injury, an action on the case (which established indirect injury), or the tort of criminal conversation.[24] Injured husbands of adulterous wives brought trespass suits for civil damages, just as they would have if a neighbor had wasted their stand of timber, detained their slave, or allowed livestock to damage their tobacco crop. Wives could sue their husbands for adultery, but such women were relatively rare and won their cases even more rarely.[25]

In York County, an action on the case for loss of consortium provides an important context to the cases of brabbling wives and adultery discussed later in this chapter.[26] The case spanned the years when

adultery convulsed the Slate and Delony households; and it illustrates the tensions between the rights of husbands, the powers of masters, and the subordination of wives and indentured servants. In February 1693, Cornelius Cornute, an indentured servant, sued his former master, Stephen Pond, in an action on the case for adultery.[27] The suit alleged that Pond had not only detained Cornute's wife Ann but, more ignominiously, had made it his "frequent custome to lye with her [and] openly boast thereof to the said Cornute and others." Cornute claimed that by these actions he was "much dam[nified]," a legal term for injury. The jury agreed, and awarded Cornute one hundred pounds of tobacco in civil damages.[28] These were, however, meager damages: three months later a jury awarded 250 pounds of tobacco in civil damages to a man whose dog had been deliberately and fatally shot.[29] Cornute's success suggests that the jury agreed that he held rights over the body of his wife, although the damage award suggests that Virginians cherished the powers and rights of masters more than they did those of husbands.[30]

Although the jury in *Cornute v. Pond* attempted to balance the rights of husbands with those of masters, it gave no consideration to the rights of wives nor, under the emerging logic of the civil litigation of adultery, was it required to do so. For instance, the jury did not order Stephen Pond to sell the indenture of Ann Cornute or to remove her from his household. Typically, when female servants complained of sexual victimization by masters, Virginia's courts ordered their indentures to be sold and the apparently consensual male lovers to leave wives alone.[31] In *Cornute v. Pond,* however, the jury gave no consideration to whether or not Mrs. Cornute was engaged in consensual sex or was a victim of sexual coercion. Legally, her consent was immaterial to her husband's case.[32] From our vantage point, it seems clear that her status as an indentured servant makes it tricky to ascertain how freely her consent was given. Surviving court papers give no hint of coercion: two witnesses, a husband and wife, deposed that in September 1691, sixteen months before the case was brought to court, they "found Pond upon a bed covered up along with Cornute's wife."[33] Ann Cornute was an object of dispute between men; Pond's injury to Cornute was purely the possession of his wife. Her acceptance, reluctance, or refusal of Pond's overtures played no role in the successful outcome of her husband's case. The decision underscored her subordination under the law.

Slaves did not have legally binding marriages, so it may seem that

issues of adultery would have been irrelevant to them. In a strictly legal sense, this is true. Masters, however, sometimes did understand it as their prerogative to proscribe what they perceived as adulterous liaisons of their slaves. Their attempts to govern the sexual behaviors of their slaves were based on the legal and extensive rights they possessed over the bodies of their bondspeople. Adultery by slaves, especially wife adultery, could gain the attention of slaveholders and, in their minds, justify correction. Thomas Thistlewood, for instance, a planter in Jamaica during the second half of the eighteenth century, regularly interfered in the personal lives of the slaves on his plantation. He flogged a slave for cuckolding her partner and had another couple whipped for "criminal conversation," the legal phrase for adultery litigation prevalent at that time.[34] Similarly, William Byrd II carefully regulated the behavior of servants, employees, and slaves at Westover. In 1709 he threatened to beat his slave Anaka if she did not confess the "intrigue" between an employee and his nurse, although neither of these individuals was apparently married. In 1710, however, he ordered that "L-s-n be whipped for beating his wife and Jenny to be whipped for being his whore."[35] In the absence of legal penalties for alleged sexual infractions, planters were free to substitute their own forms of summary justice and punishment.

As legal notions of adultery evolved in the seventeenth and eighteenth centuries, wife adultery in particular remained a stubborn theme in early modern popular culture. Religious tracts condemned, broadsides sensationalized, and ballads recited tales of the crime, while portraits of female adultery arrived first in the novels and plays of Daniel Defoe and Aphra Behn and then received significant invigoration through popular literature exemplified by Cooke's verses.[36] Stories of erring wives and cuckolded husbands were often delivered from a decidedly humorous vantage point; but importantly, they also consistently emphasized revenge on the sexually dissolute wife and the restoration of honor to the damaged reputation of the cuckold. Joy Wiltenburg argues convincingly that anxieties about female power and fears of cuckoldry literally gripped early modern England.[37] Ballads, for instance, recited tales of unfettered women, conflating adultery, verbal insubordination, and battery: all were cudgels used by women to keep the upper hand in their marriages. Erring wives essentially claimed a "right to mastery" of their households.[38] By deriding the agency of wives within the institution of marriage and the family, early modern popular culture reinforced the emerging com-

mon law of adultery and its protection of the property rights of husbands.

All of which brings us back to Elizabeth Slate and Joanna Delony. While the legal actions that addressed their ungoverned speech were defamation suits, legal treatments of and popular attitudes toward adultery were lurking in the minds of the justices and jurors who heard their cases. The double standard was employed: witnesses established and reestablished Robert Slate's loss of consortium in Elizabeth as an egregious affront to his property rights as a husband, yet Lewis Delony's extramarital affair was irrelevant to the court. Moreover, the elements and texture of the collective narratives established by witnesses about both women were remarkably similar to the portrayal of adulterous wives in early modern popular culture. Both women were scolds who used words as weapons: Elizabeth Slate's braggadocio and Joanna Delony's violent invectives both aimed toward mastering their marriages. Despite the fact that Delony was not an adulterous wife, her ungoverned tongue—the outrageous stories, highhanded manner, and threats of harm—effectively transformed her into the familiar mold of an errant female who attempted to command her husband. The defiance of husbands' rights, spousal violence, and the assertion of independence by adulterous wives were staples of representations of wife adultery in early modern print.

Through their disorderly speech, both women summoned powerful cultural narratives of female sexual misrule and challenged the authority of husbands as well as justices. Poised as brabbling wives, both women presented a substantial threat to the powers of husbands; the institutionalization of mastery; and the maintenance of patriarchal authority in households, neighborhoods, and courts. They not only violated gender roles but also compromised male honor. While defamation actions brought their ungoverned words into court, the court implicitly relied upon legal treatments of adultery and the rights of husbands in censoring the spoken transgressions of these disorderly wives. Both women, through ungoverned speech and unruly action, attempted to seize and occupy a power accorded to men. For that, they were punished. Even so, each woman eventually resisted the censure leveled upon her by the legal community.

"Let me goe and come as I will, my husband will not controle me."

ELIZABETH SLATE,
wife and mother (1692)

From July 1691 to January 1692, Elizabeth Slate was with her husband Robert only periodically. They neither stayed together at their own home nor managed, when lodging elsewhere, to sleep under the same roof. Both husband and wife were peripatetic, wandering from household to household: he seemingly in search of her; she avoiding him. Robert Slate admitted that this situation left him "disturbed in minde" and that he found it "dolefull being att home night after night alone."[39] Where was Elizabeth Slate? Her absence from her home and nuptial bed reflected her departure from the marriage itself. Defying both law and convention, she abandoned her husband in order to spend her evenings with her lover, James Hill. Hill, however, was slightly more cautious than his paramour. When Robert Slate finally "ketcht" the couple in his own bed together in the early hours of a winter morning, a sleepy and startled James Hill, in a state of "wonderment," queried, "who is here?" "Who is *there*?" Slate demanded in answer.[40] James Hill made a speedy departure.

Hill was wise to run. One might easily assume, with good reason, that he did so because he expected a violent response from an angry husband; but it appears that he also feared further discovery by neighbors. At the moment that he was making his escape, Robert Slate was urging nearby individuals to witness the adulterous couple.[41] It is likely that both men were familiar with a recently enacted law regarding adultery—all laws and proclamations were read in county courts and public assemblies—that required the oaths of two witnesses for adultery prosecutions and also substantially stiffened the penalties to a hefty fine of twenty pounds sterling, thirty lashes at the public whipping post, or three months in jail.[42] Hill, no doubt, sought to avoid both the public humiliation and the financial or physical costs of the punishment that he would suffer for this transgression.

When it began to appear as if he would indeed be hauled into court to face an adultery presentment, Hill took the offense, filing a defamation suit against Robert Slate. In the legal case tried before the York County court in February 1692, Hill charged that Slate had "scandalously and falsely" abused his reputation and credit by "publishing and declaring" that Slate had "ketcht the plaintiff in bed with [Slate's] wife and that the defendant's wife's mother upheld her daughter and [Hill] to keep company together and live in adultery, alsoe that the defendant's wife is with child by the plaintiff and that [the defendant's life] is dayly indangered by his wife's mother and the plaintiff."[43] The

charges, as we shall see, missed none of the details of the collective narrative set forth by witnesses, save for one.

For the five witnesses, all men, who offered testimony in the case, Mrs. Slate's damning assertions of independence marked the beginning of this episode of female misrule. The depositions, all given in court on 24 February 1692, collectively established a narrative that included adultery, attempted spousal murder, and illicit pregnancy.[44] Neighbors had begun following the case in July 1691, and the earliest recollection provides a key piece of evidence. Elizabeth Slate walked with young Thomas Dunston "from her father's house to her own house" and made three unusual declarations. First, she claimed that she "never had any real love " for her husband. Second, she asserted that her marriage was a "forced match" arranged by her parents. Finally, she vowed that shee would "goe and come" when she would, for her husband would not "controle" her.[45] Such an open declaration of autonomy did not go unnoticed by the local community. Yet evidently none of her neighbors took the opportunity to dissuade Elizabeth Slate from her ill courses or attempted to interfere in the matter. In the proto-Lockean world of the early Chesapeake, as Mary Beth Norton has termed it, household matters were privatized and, to a large extent, shielded from the eyes of the court. Unlike in New England, where neighbors watched and reported on misbehaviors to the court, Virginians watched but apparently did not act.[46]

While it is significant that the neighborhood's first notice of the Hill-Slate affair originated with Elizabeth Slate's ungoverned tongue, Robert Slate engaged in a bit of brabbling as well. He turned not to his neighbors, however, but to the local legal fraternity of York. Of the five witnesses in the case, three came to learn of the affair *because* Robert Slate had told them, and Slate directly sought two of those men only because (he believed) they were grand jurymen.[47] He also appeared to have delayed, perhaps attempting to persuade his wife to desist, because he did not seek a legal remedy until three months after Elizabeth Slate gave verbal notice of her independence. In October 1691, he went to James Wright, who Slate had mistaken for a grand juryman, in the middle of the night and complained that "what I mistrusted is now oute for there is James Hill and my wife in bed together." Slate asked Wright to come and view the guilty couple, but Wright refused.[48]

In order for his speech to be effective, Slate had to talk to the right men; until he did so, his words would not control his wife or push the

matter into a court where he might obtain support for his authority to regulate her. By January 1692, however, Slate finally held the trump card: physical evidence of spousal violence. Once again he visited James Wright, but this time he carried with him a torn neck cloth. Slate declared that "had not his neck cloth broake[,] his wife [would have] choaked him," and subsequently asked if Wright was "not a grand Jury man." When Wright answered that he was no grand juror—which is no doubt why Slate had earlier and on this occasion sought him out—Slate "went with his neck cloth away" to visit James Blackstone, who was a member of the grand jury.[49] To Blackstone he showed the ripped neck cloth as well as a bloody coat. Moreover, he reported finding the adulterous couple in bed together, Hill's "right arme and right legg" lying across Elizabeth Slate, a strong image of Hill's possession of her. Slate cemented this perception by complaining that he had been deprived of access to his wife, having no "felicity nor recreation" with her in over a month because of her intimacy with Hill.[50] Legal intervention was needed to secure Slate's rights as a husband and to quell the violence and disorder in his household. Rather than suing the marital interloper, he seems to have been angling for criminal charges to be brought against the adulterous couple.

Robert Slate evidently believed that a presentment from a legal official, rather than a lawsuit initiated by himself, was the best means of regaining control over his wife, redeeming his cuckoldry, and restoring his honor. After all, gossip about the Hill-Slate affair had been spreading for seven months, and evidence from depositions suggests that the neighborhood was well informed of the liaison. When Robert Slate visited the house of John Seborne in January 1692, Mrs. Seborne told Slate that "she heard a bad report of his wife"; further "she askt if itt was soe or noe."[51]

Ironically, in the honor-based world of Anglo-Virginian masculinity, James Hill also had a keen interest in upholding his reputation.[52] Hill's father had openly decried the turn of events. One witness reported that he asked Hill *père* why he did not let his son settle the new land that he had recently acquired, and the father replied that his son should have the land if he "would not but marry" but that James had "taken ill courses" by using the company of "Robert Slate's wife."[53] James Hill's defamation action was therefore a defensive one, a potentially effective means of repairing his reputation and restoring his good standing with his father.[54]

The collectively constructed narrative, then, began with a willful, sexual, and recalcitrant wife—a woman who took a lover into her husband's bed. Witnesses' stories advanced a conspiracy of wife and mother against husband, embellished with charges of spousal battery and illicit pregnancy. Giving even more credence to the collectively established story were the words of James Hill's father. As a counterpoint to the stories of conspiracies swirling about Robert Slate from his wife, her lover, her mother, and her children, Hill senior provided a probably unexpected and important source of support. After all, he stood for the power of the patriarch in the household, one who would not allow his son to husband the land until he could show himself able to become an honest husband himself. Troubled relations existed not just between husband and wife but also between father and son, and disobedience emanated from James Hill as well as Elizabeth Slate. Yet as we would be remiss to forget, at the core of the story was Elizabeth Slate's declaration to act independently of her husband. Recall that it was James Hill, not Elizabeth Slate, who fled when discovered by Robert Slate.

The jury missed none of these elements: the brabbling declaration of sexual autonomy, the female misrule, and the violation of Robert Slate's rights in the person of his wife. They found for Robert Slate and ordered Hill to pay a substantial fine of one thousand pounds of tobacco in damages. Furthermore, they ordered him to "desist coming to the defendant's house nor att any time hereafter harbor, entertaine or associate himself in company with the defendant's wife for the future."[55] They returned Elizabeth Slate's person to her husband. Four months later, in June 1692, she bore a daughter named Rachel whose father was almost certainly James Hill.[56]

The troubles in the Slate marriage apparently continued. Nearly five years later, in 1696, Robert and Elizabeth Slate separated. Robert issued a public declaration that forwarned any "person or persons whatsoever from giving any credit, dealing, or bargaines with his wife."[57] Elizabeth Slate must have continued with her independent ways; but unless she had other means of support, she must have found life financially difficult after the separation.[58] She finally had her independence, but her husband controlled the property. In 1701, Robert Slate deeded a cow to their daughter, Elizabeth, who was born in 1690, before the events just described.[59] There is no record of his ever providing Rachel with any property. The York records contain no further mention of the erring wife and mother.

The story of Mrs. Slate is one of female misrule rooted in a wife who chose to "goe and come" as she pleased and found a partner who was willing to brook the displeasure of his father and, in doing so, risk his opportunity for a better chance. This was the stuff of ballads. Both the wife and the lover performed significant transgressions, but hers was the most egregious breach of gender roles: her battery of her husband and her willful declaration to indulge her determination to play the master, assume the sexual prerogatives of white men, and thereby function free from the typical constraints faced by white women in colonial Virginia.[60] The social stage, however, was not the same as the legal stage; and her neighbors as well as the local legal actors in York County worked relatively quickly to bring the recalcitrant wife back into the compass of her husband. Still, that did not guarantee them success.

> *She wished her husband would be gon[e] for a fortnight . . . that she would dress herself in man's apparel and go to the said Hides house and take up her bo[a]rd there and gett the said Ms. Hide in the minde to lye with her.*
>
> JOANNA DELONY,
> wife and mother (1694)

Like *Hill v. Slate,* the dispute between Joanna and Lewis Delony and Robert and Jane Hide centered on adultery, the powers and rights of husbands, and attempts by wives to master their households. It, too, represented an uncommonly contentious occasion of female brabbling. The case began when Joanna Delony used her speech to punish and discredit Jane Hide, the neighboring wife with whom Delony believed that her husband Lewis was having an affair. While Delony's primary purpose was to shame her female adversary, it seems likely that she desired not simply to vilify Hide but draw an impenetrable line around her marriage. In this desire she was, of course, exerting a control that ironically transgressed the boundaries of wifely behavior: Lewis Delony was not to be controlled—not by his wife, at any rate. Of course, when the case reached the York County court as a defamation action brought by the Hides against the Delonys, both husbands and wives were named as primary litigants. Common law understandings of coverture dictated this way of proceeding (under law, husbands and wives were unified in their persons) despite the fact that women's words were really at issue in the case. The honor of husbands, as we shall see, was also much at stake in the outcome of the suit.

In comparison to *Hill v. Slate,* the defamation action brought by Robert and Jane Hide against Lewis and Joanna Delony commenced speedily. The suit was heard in June 1694, only three months after Joanna Delony uttered her charged speeches in late March and early April. Part of the reason for the swiftness of the verdict was undoubtedly the class differences between the Delonys and the Hides. Robert Hide was a man on his way up in the world as well as a member of the local legal fraternity, from whom he must have expected support. He had been active in the York County court in a variety of ways in the early 1690s, serving as foreman of the grand jury, taking inventories, arbitrating disputes, and holding an official appointment as surveyor of the county's highways. Interestingly, he was also a juror in *Hill v. Slate.* He borrowed money from Major Lewis Burwell, an influential man in York politics, and in 1692 gained headrights to settle land for importing seven indentured servants.[61] When Joanna Delony began complaining about Jane Hide, loudly asserting that she would have "given her a whore's marke" and "slitt her nose" in revenge for sleeping with Lewis Delony, she insulted Robert Hide as much as his wife. Given his experience in court, it is not surprising that he swiftly filed a defamation suit to stop Joanna's gossip.[62]

The Delonys were much less well connected than the Hides. Lewis and Joanna Briming Delony married sometime shortly before 1691. Joanna had been a servant, and Lewis successfully sued her former master for her "freedom cloathes" and twelve shillings of freedom dues.[63] There are no other records of either Joanna or Lewis except for what survives in the suit discussed here, and they appear eventually to have moved from York to Cumberland County. Class differences probably factored into Robert Hide's relatively swift response to Joanna Delony's words because they came from a women lower on the social economic scale than himself or his wife. The reputation of his household had more at stake.

Like Elizabeth Slate, Joanna Delony seems to have spent a good deal of time walking and talking around her neighborhood and identifying the places where she brabbled became a central concern of the justices who heard the defamation suit. Public speech was risky precisely because it was public. One witness reported hearing Delony's invectives but was unsure whom they were aimed at. When she asked Delony "who she meant," Joanna, "poynting to the said Hides house," replied, "Mrs. Hide." The witness noted that the statements were made in the Delonys' house and "about their plantation."[64] Not only did Joanna's

words attempt to master two households, but they were also uttered outside of acceptable boundaries. Virginia's tobacco fields did not, of course, expressly exclude free white women; but Delony's speeches violated how a free woman was expected to conduct herself within that space. To walk by a neighbor's house en route to church was one matter. To walk by a neighbor's house and accuse her of incest, abortion, and murder was a much weightier issue. In fact, three of the four sworn depositions in *Hide v. Delony* attest to the importance of the locations of unruly speeches: Joanna Delony's violent words were uttered "goeing to church," "at the "Andersons tobacco ground," and "about [the Delonys'] plantation."[65] All of these depositions were sworn to in open court, *viva voce.* Given that type of testimony, as opposed, say, to depositions read into evidence, justices seem to have prompted witnesses to identify the site of disorderly speech. All three depositions end with a statement that locates the venue where Joanna Delony spoke her disorderly words. Distilled by witnesses who themselves were prompted by justices, Delony's words were presented to reflect the ways in which they polluted public space. This was precisely what made them dangerous.[66]

Delony's speeches presented several affronts to the peace of her neighborhood and notions of social and gender hierarchies in early Virginia. First, she attacked the sexual purity of a free white woman whose social and economic status was above her own. For this alone, she would have to answer. Adding insult to injury, she verbally denunciated Jane Hide's sexual purity before the audience of a slave, a dangerous move in the racialized climate of the 1690s. Moreover, Delony's speeches not only attempted to repress Jane Hide but cuckolded Robert Hide, in part for not mastering his wife himself. At the same time, Delony sought to master her own husband by shaming him into conventional marital behavior. Thus, despite her class disabilities, the power of Joanna Delony's speech made a considerable impact on not only Robert and Jane Hide and Lewis Delony but also her neighbors and the York justices. Did she intend to cut such a wide swath with her words? Absolutely. Her goal was to restore order within her household by retrieving her husband. In England, slanderous words hurled between women might employ sexual invectives, but at bottom the issue was not sexual transgression but the boundaries of households.[67] Such outrageous speaking also may have been typical for women of her class who felt that they had little to lose in pursuing their interests.[68]

If we contrast Joanna Delony with Robert Slate, who were both injured parties in their marriages, it becomes clear that her speeches were greeted with much more alarm than were his. While Delony's attacks on her husband's lover were admittedly more egregious than Slate's, he also made accusations of illicit pregnancy, spousal murder, and violence. His speeches, however, were made at the homes of deponents: all three witnesses, including the grand juryman, testified that Robert Slate came to them and uttered his accusations in the relative privacy of their houses. Recall that his wife's words, like those of Joanna Delony's, were much more indiscriminately public, given as she was walking from one house to another.[69] Being constituted as a brabbling woman, then, was more than a matter of the texture of one's words. It also depended on the venue in which those words were given. The speech of men and women was calibrated as disorderly by very different standards.

As witnesses ventriloquized Joanna Delony's unfettered words, they created a collective narrative that, implicitly and directly, explained her motivation as revenge. This was never a motive imputed to Robert Slate. According to the witnesses, Delony's words sought to discredit and, in a real sense, best Jane Hide. The testimony grew more dangerous with each witness, and their recollections of Delony's disorderly words added up to a classic portrait of a scolding, scorned woman. Chronologically speaking, the earliest recollection implied a competition between the two women: the witness reported that that Joanna Delony had wondered out loud why Jane Hide should "stand so much upon her honesty more than other women." Had Jane stood upon her honesty with Joanna? According to the witness, Delony had asserted that Hide had no cause to think herself better than other women, for she had let "her father in law lye with her"; and "when they thought she was with child," he had given her "a dose to distroy itt."[70] The accusations of an illicit relationship, a resulting pregnancy, and a legal but nonetheless questionable act of abortion greatly damaged Hide's reputation. That, however, was only the beginning. The second witness, whose story of Delony's invectives was chronologically the second episode of contentious speech, reported that on the way to church Joanna Delony had run "to overtake" Jane Hide, saying that "if she could have overtaken her she would have pulled her off from her horse and given her a whores marke" or "slitt" her nose for revenge.[71] This witness directly accounts revenge and competition as Delony's motives in making unruly speeches. It would, indeed, be dif-

ficult for Hide to "stand upon her honesty" with a slit nose. More than revenge, however, Delony's speech reflected her desire to punish Jane Hide publicly by marking her body permanently—an act that was to be performed only by legal sanction or through the authority of the court. Although masters and parents could claim the right of physically marking the bodies of their dependents through beatings and whippings, it was not a right reserved to free white women who felt themselves wronged by the actions of a relative peer.

Any lingering doubts about the ungoverned tongue of Joanna Delony were put to rest by the testimony of Amy Clarke, who provided even more evidence that Delony used speech to seize the power accorded to free white men. Clarke, the youngest of the four witnesses, offered testimony that thoroughly damned Joanna's bout of female misrule. Delony's claims of Hide's illicit sexual relationship, resulting pregnancy, and subsequent abortion were just the beginning of the account that, according to Clarke, Delony had delivered in her own home and "about their plantation." Mrs. Hide had convinced Mr. Delony to kill Mr. Hide in an effort, Delony averred, to "sett her husband against her." Moreover, as Clarke deposed, Delony "told a negro boy in [her] hearing" that Mrs. Hide was such a "whore [that] she would lye with a negro." Surely, as Kathleen M. Brown has argued, this racial slander dealt a significant blow to the reputation of a white female after the 1691 law banning interracial unions.[72] Moreover, Delony named two specific men besides her husband with whom Jane Hide allegedly had—or contemplated having—sexual affairs.

Delony had indulged also in a significant fantasy of cross-dressing, and the meaning of her extended fantasy deserves exploration. Cross-dressing women were common characters in print culture and the theater. Yet real-life white women did cross-dress in order to escape their roles, even in the North American colonies. In 1726 Mary Gorman, disguised as a male servant traveling under the name of Tom Savage, worked aboard a ship en route from North Carolina to Virginia.[73] Joanna Delony only fantasized about assuming male disguise, but doing so represented a flagrant breech of gender conventions. She wished her husband would go away: she would "dress herself in man's apparell and go to the said Hides house and take up her board there and gett the said Mrs. Hide in the minde to lye with her." Once Delony had Hide "in open order," she would reveal to Mr. Hide the sort of woman he had married. To discredit her adversary, she first claimed the privilege of masculinity in order, ironically, to preserve her status as the

wife of Lewis Delony.[74] In literature cross-dressing women similarly commandeered both male and female roles and were often valorized for having done so.[75] Delony may well have had in mind this model of female heroism disguised in male garb, if one accepts that her heroic acts were to expose the true nature of Jane Hide to her husband and convince Lewis Delony that his real place was at Joanna's side. Few Virginia men, however, would have welcomed such revelations.

Joanna Delony received immediate censure for her unruly speeches, but she may have gained some vindication in later years. The Hides' suit began with the complaint that the defendant Joanna Delony had circulated "malitious" reports that Jane Hide was "a sterrer up of sedition and strife." The complaint continues, asserting that Delony's words had labeled Jane Hide "a common whore and a murtherer together with diverse other unseemly and reflective expressions."[76] Unsurprisingly, the jury found for the Hides and ordered a fine of five hundred pounds of tobacco in damages, far fewer damages than the one thousand pounds paid to Robert Slate.

In addition, the jury asked Joanna Delony to apologize and submit to Jane Hide as "the court shall in their persons and judicious judgment think fitt." Lewis Delony was ordered to "cause his wife to appeare" at the next court and offer her apology.[77] Once again, Joanna refused to comply with either her husband or the court. At the next court, the clerk noted that she had "refused to stand and abide" with the court's order for the "injuryes and abuses offered and don" to Jane Hide. Delony was ordered into custody. It was not until November, the court having been adjourned in September and October because of bad weather and sickness, that the case was resolved. Still, even then, Joanna Delony did not appear. Instead, Lewis Delony "in behalfe of his wife Joanna" paid the fine to Robert Hide.[78]

In the end, Joanna Delony's words may have indeed obtained their desired result. Three years later, in 1697, Jane Hide petitioned the York court requesting maintenance from her husband; the couple had evidently separated. When the court requested that Robert Hide answer her complaint, he initially refused and was ordered into custody. Subsequently, however, he promised the court that he would support his wife, give her the privilege of her children, and live "peaceably and quietly" with her "without molestation."[79] Eventually, Joanna Delony's brabbling words may have succeeded in policing the boundaries of the Hide household, if not her own.

The particularly contentious cases of the 1690s sprang from the unruly words and behavior of married women who used speech as an instrument of power. Mrs. Slate dangerously asserted her sexual independence from her husband, while Mrs. Delony's words targeted a woman whom she feared was involved with her husband. As Norton has argued, in the context of early modern society, women's gossip was one of their only means of exercising power.[80] This was also a risky venture, one that could have disagreeable consequences. Elizabeth Slate was initially forced back into her marriage, and Joanna Delony was ordered to apologize. Although at first they were the losers, both women may have ultimately achieved their ends. Slate left her husband: he did no longer "controle" her. Delony did not apologize; her husband apologized for her. She may have also gained satisfaction when Robert Hide temporarily abandoned his wife.

These cases of disorderly speech compress complicated issues of female sexual agency and the instability of patriarchal authority in the home. Of the several things that Delony vilified in Mrs. Hide, all centered around her sexual autonomy: Hide, Delony declared, would sleep with a slave, her father-in-law, and Delony's husband and control her own reproductivity. Delony's solution was equally sexualized. Her fantasy—donning male disguise, seducing and exposing Jane Hide—allowed her to assume masculine prerogative. Mrs. Slate was much more direct: albeit married, she would not let that fact quell her sexual agency. Moreover, these contentious cases reflected the ways in which women, through speech, might challenge domestic patriarchal relations and the authority of husband over wife. By presenting such challenges in the extralegal realm, Slate and Delony were indeed quintessential brabbling women. The more dangerous issue was the way in which women's words contravened the authority of their husbands, attempted to master households, and ignored legal directives, all of which reflected cracks in the facade of domestic patriarchy.

Finally, the 1690s was a logical time for conflicts over the rights of husbands and masters, anxieties about the powers of wives and subordinates, and tensions over sexuality to emerge in Virginia. When adultery threatened the Slate and Delony households, controlling white women's sexuality was of paramount concern to Virginia's lawmakers: a statute enacted in 1691 and reenacted in 1705 proscribed mixed-race sexual relations and marriages and forced white women toward "racial exclusivity" with white men, while the transition to

an enslaved labor force reshaped the legal and cultural rules by which white and black women would be judged.[81] Virginia was transitioning from a society with slaves to a slave society, and the master-slave relationship was quickly becoming the model for all social relations. From the "most intimate connections between men and women to the most public ones between ruler and ruled," as Ira Berlin has argued, all relationships mimicked those of slavery.[82] In such a climate, the sexual precocity of Elizabeth Slate and the sexual and racial insults hurled by Joanna Delony would have been especially threatening to the authority of husbands as well as to the king's peace. Regardless of whether they stood as the injured or injurious party in the suit, both women were made to pay for their brabbling speech and their attempts to master their husbands.

4 Freedom, Dependency, and the Power of Women's Speech

Give an ear unto a Maid,
That lately was betray'd
And sent Into Virginny O:
In brief I shall declare,
What I have suffer'd there,
When that I was weary,
Weary, weary, weary, O.

"The Trappan'd Maiden,"
English ballad (1690)

DISPUTES BETWEEN HOUSEHOLD masters and their dependents regularly punctuated the domestic lives of seventeenth-century Virginians. Those who headed households had the authority, within reason, to physically correct their wives, children, and indentured servants and held unlimited power of correction over their slaves. In particular, masters used their legitimate right to discipline their often unruly and unfree labor force of indentured servants and slaves. A few blows with a stick might chasten a grumbling laborer, just as a few switches with a whip could encourage a dawdling servant to step more quickly. Beyond masters' immediate aims to punish their dependents, the brutality they used was a symbolic act, one by which they demonstrated their authority and maintained dominance in their households as well as in their tobacco fields.[1] The dominion of masters was, of course, not absolute or inescapable; but if they chose to use it, they had the power to threaten their dependents, restrict their movements, and traumatize them with beatings that probably, as intended, silenced many of their voices. Masters ranged across a continuum from benevolent to brutal, but their excesses defined and established the terms of mastery in colonial Virginia.

While masters had the authority to correct their indentured servants, they also had distinct obligations to them, and many servants held their masters to these conditions. Masters were expected to pro-

vision servants adequately and respect the terms of the indenture agreements. Virginia law gave indentured servants the right to petition a magistrate for a variety of grievances: if legitimate correction shaded into excessive abuse; if their diet or provisioning was insufficient; or if they had been illegally detained, denied their freedom dues, or were not used in accordance with the provisions of their indentures.[2] If the single justice to whom a servant made her petition found the complaints credible, her master would be warned at the county court where the matter would be decided.[3] Servants of both sexes were well aware of their legal right of petition, and they participated regularly in the local courts of the early Chesapeake. Used skillfully, the right to petition allowed servants the ability to broker the terms of their labor.[4]

In the seventeenth-century Chesapeake, indentured men and women petitioned the courts on a variety of matters. They complained of battery or ill-use, accused their masters of failure to train them according to the terms of the indentures, and demanded their freedom dues. Although petitions of men always outnumbered those of women, the latter made complaints to the court at a rate that was roughly proportional to their numbers. The petitions also suggest that indentured servitude differed by gender. Female servants were more likely to receive beatings from both masters and mistresses and were more vulnerable to sexual abuse. Male servants, on the other hand, were more often detained beyond the term of their service and more likely to complain that they had not been educated according to the terms of their indentures.[5] Yet despite their vulnerability, female indentured servants were more likely than their male counterparts to succeed with their petitions.[6]

While African American slaves had no recourse for making legal complaints about their treatment, they did have limited legal avenues through which they might obtain freedom. This was especially true before 1660, when slavery in early Virginia had not yet been entirely fixed as a permanent, inescapable condition. For instance, slaves worked for cash and purchased their freedom, made contracts in exchange for manumission, and petitioned the courts for their freedom.[7] Gaining freedom often depended upon Christianity: if slave petitioners could prove that they had been baptized, their chances of being freed, while never guaranteed, did improve. In 1656, for instance, Elizabeth Key of Northumberland County, the daughter of an enslaved black mother and a free white father, petitioned for her freedom on the

basis of her Christianity and her paternity. Her suit was granted by the lower county court but overturned at the superior General Court. Eventually, she gained her freedom after her husband, an Anglo-Virginian and a lawyer, appealed her case to the General Assembly.[8] However, such routes to freedom were quickly closed. By 1667, laws not only stipulated that slavery was determined by the condition of the mother, they also decreed it compatible with Christianity. Thereafter, slaves seeking legal freedom had to demonstrate that their mothers were free or white.[9] Curiously, as late as the 1730s slaves petitioning for their freedom would mention their faith, suggesting that culturally, at any rate, Christianity was linked to freedom. Legally, of course, that fact was no longer meaningful in freedom suits.[10]

Servants' complaints about treatment and slaves' petitions for freedom proved to be limited but important avenues of redress. It would be remiss to underestimate the enormous challenge women faced in lodging those grievances before the court. Success depended upon the narrative agency as well as the legal acumen of petitioners. The stories told by servant women might give them an edge over their masters or even free them; if slaves specified just the right facts, they had a slender hope of freedom. The journey to the court was a solitary one that required perseverance and persistence. If successful, a servant might find protection or a slave might obtain an order for freedom. Failure, on the other hand, might bring reprisals.

What made this journey so difficult? First, the physical abuse of servants and slaves was, as already noted, a regular feature of life. While servants had legal recourse to lodge complaints, they often faced obstructions in making them. A 1662 law prohibiting the "cruelty of masters" was uncharacteristically vague on the issue of evidence and simply specified that justices find "just proofes" of servants' complaints.[11] What could those proofs entail? Visible bruises or injuries might constitute convincing evidence of battery, but masters also might take care to beat their servants so that marks would not show.[12] More likely, justices would make inquiries or require witnesses to testify to beatings; but those witnesses were often drawn from the ranks of unfree and hired laborers. Servants would have good reason to fear reprisals for testifying, while slaves did not in practice, at least in York and, eventually could not by the terms of law, give legal testimony against whites. Wage laborers would face a loss of their income by angering their employers. Finally, the legal system itself could be unresponsive. Justices and grand jurors, who were themselves usually

landowners and masters, might also have discouraged servants' complaints.[13] Given these barriers, a slave's passage to freedom or a servant's journey to complain was intensely difficult.

This is not to say that unfree women were passive and powerless against their masters or in seeking their freedom. Gaining the ears of unsympathetic magistrates or indifferent assemblymen required persistence on the part of unfree women; once they had an empowered audience, success depended in part upon the nature of their legal strategies and the impact of their stories. Yet, as we shall see, it also depended in no small part on the political concerns of their audience. When it came to the petitions of unfree women, judicial and legislative officials were much more inclined to offer support when doing so served their own political interests and buttressed their authority in the county and the colony. The brabbling speech so memorably deployed by other Virginia women could also be an avenue of resistance and empowerment available to unfree women. Their status as unfree, of course, made the use of unruly speech more dangerous. A servant who complained of a master's excesses or who disagreed about the terms of her indenture might wind up being thrashed in response. A slave who sought freedom faced an increasingly hostile legal system and violent reprisals as well.[14] But if they chose not to engage the legal system, their options were extremely limited. Servants might, if their master proved willing, persuade another master to purchase their indenture; and as a last resort, both slaves and servants could run away. Despite large barriers and few choices, however, the legal system did occasionally provide a remedy. An unfree woman who unrelentingly pursued legal authorities, opportunistically used legal forums, and skillfully shaped a narrative might create an advantageous position from which to obtain legal redress, especially if her cause intersected with the immediate political concerns of the empowered men to whom she took her case. If successful, her words reshaped her relationship to her master and gained her, if not outright freedom, some measure of relief.

This chapter explores the experiences of four unfree women in Virginia who used the legal system to remedy their complaints. Three of them—indentured servants Mary Rawlins and Elizabeth Cole and a woman called Sarah the Mulatto, whose status as either a servant or a slave is indeterminable—lived in seventeenth-century households that were convulsed by violence and turmoil and eventually testified to their masters' brutality and crimes before the York County justices.

Mary Rawlins secured official censure of her master for his excessive beatings of her: he sold her indenture to the man that she intended to marry. Elizabeth Cole, after several petitions, obtained her freedom and discredited her masters before the York justices at a moment when, as we shall see, the magistrates were especially tender about threats to their authority. Sarah the Mulatto was commanded by the court to testify to the illegal activities of her mistress, who had purloined a saddle; in the process, Sarah cleared herself from charges of wrongdoing and dealt a strong blow to her masters' household. For all three women, timing was critical: each spoke at moments when the actions of their masters were at odds with the prevailing concerns of judicial and political authorities.

In taming the excesses of their masters, these three women employed similar strategies. First, regardless of whether or not it was directly material to their cases, all testified to actual or threatened brutality from their masters. What is more, each case featured female masters whose violence was depicted as volatile and savage, women whose passionate blows were accompanied by torrents of immodest speech. These cases reflect the "gender boundaries" of early Chesapeake households, in which "mistresses were more likely to assault their maids than their men."[15] The narratives of these unfree women implicitly caused the court to question the femininity and fitness of their female masters.

Moreover, the words of these three women were deliberately chosen to reflect badly on the masters who were supposed to head their households. Just as brutality from female masters threatened to unsex those masters, excessive brutality from male masters brought into question their fitness as household governors. Some amount of violence was expected from masters, but they were not to beat their indentured servants with too much passion.[16] Thus, the extent to which violence was excessive or, in the parlance of Virginians, "unchristian" was determined by the status as well as the gender of the victim. Additionally, since "christian" and "unchristian" were codes for "white" and "black," respectively, violence was apprehended differently depending on whether the victim was a servant or a slave, a man or a woman.[17] As one historian notes, acts of household violence, then and now, are "situationally governed," depending as much upon the "culture and society of a particular time and place as they do on human nature or family pathology."[18] In seventeenth-century Virginia, violence was routinely used to manage servants and, in more brutal and

excessive forms, to control slaves, but it was expected to be deployed rationally and deliberately rather than passionately and wantonly. Masters—able masters at any rate—were expected to comprehend that principle.[19]

Less is known about the slave Mary Aggie, who in the late 1720s petitioned the General Court, the superior court of the colony, for her freedom. The specific circumstances that led her to make the petition as well as the reasons for its timing are unknown. Nevertheless, while her plea for freedom was denied, and she gained no immediate relief from making it, her words were remembered by one of the highest authorities in the colony, Governor William Gooch; they ultimately spared her own life and shaped the future treatment of slaves in Virginia's courts. Despite the very different trajectories and aims of these four unfree women, then, their words allowed them to challenge domestic and legal authority. Their voices reflect how slaves and servants might attempt to broker their status to their own advantage. At the same time, the cases reveal important differences in their experiences. Since indentured servants had a right of appeal which, in the cases discussed here, they pursued vigorously, their brabbling speeches reached the court and its officers. The voices of unfree women of color, in contrast, were extremely marginalized: Sarah testified only at the command of local magistrates, and while details about Mary Aggie have survived, her plea itself was silenced in the court records.

Taken together the cases of Mary Rawlins, Elizabeth Cole, Sarah the Mulatto, and Mary Aggie reflect the power of women's words, the fragility of freedom, and the tenuousness of mastery in early Virginia. Seventeenth-century Virginia was a frontier. Race relations, to a certain extent, were fluid; and barriers to freedom were penetrable by a few persistent slaves. Moreover, the gap between masters and servants was narrow compared to what it would become in the eighteenth century. Some masters had risen from the ranks of servants; others imported servants; material goods poorly demarked the rich from the poor, and the consumer revolution would not occur until the eighteenth century.[20] In that liminal environment, the four unfree women discussed in this chapter told compelling stories and exhibited a clear degree of legal sophistication. They argued for their freedom and convinced the court that their masters were excessively violent, adamantly contemptuous, and guilty of crimes. Masters, in turn, were rankled by these women's stories and simultaneously bristled at the

legal authorities who demanded security, leveled fines on or imprisoned them, or seized their property. Hence, the stories told by unfree women threw into sharp relief the dynamics of power in early modern Virginia society: mastery existed in tension both with dependents and superiors; and when pushed by the brabbling speeches of their unfree female servants, masters could not afford to ignore the complaints and demands from both below and above. Patriarchal authority was supposed to be paramount, but a few women managed to overturn its hierarchies by enlisting the aid of the court and enrolling the justices in their stories. Used deliberately and with care, the unfree women's speech could force legal authorities to reconsider their status as slaves or force them to send the message that excessive mastery was not to be tolerated.

Mastery, Dependency, and Virginia

From the viewpoint of materials printed in England, Virginia had a healthy—and no doubt well-deserved—reputation as a brutal frontier. Texts that purported to be factual and those that were clearly fictional painted an unflattering portrait of early Virginia's households. Ballads such as "The Trappan'd Maiden" (1690) and "The Betray'd Maid" (1768) recounted the lives of female servants as a harsh existence of hard work, little sustenance, and excessive violence. Both ballads feature young women who are kidnapped and sold into indentured servitude in Virginia, where they are beaten nightly, deprived of normal society, and, as their terms of service ended, cheated out of their freedom.[21] Their voices reach out plaintively to protest their victimization. Yet their complaints remain in the realm of words alone: the maids are not rescued, nor do they attempt to escape their lot. The ballads function as signs of the unrestrained power that Virginia law accorded to the masters of servants and slaves.

More than balladeers connected the voices of victimized women to the development of a slave labor system in Virginia. Anglican minister Morgan Godwin, who visited both Virginia and the West Indies in the 1670s, drew a connection between legitimized and public violence against unfree women and their voicelessness. In "The Negro's and Indians Advocate" (1680), he lamented the system of slavery as it had developed in Virginia and the West Indies. In one extended, particularized scene he recounted the institution's ill effects on British women, reporting that, "to the shame of her sex," a female master watched as her slave woman was stripped naked and publicly

whipped. Further, he noted that the master did not blush to "to be present amongst a crowd of boys and men," signaling her lack of virtue in attending a brutal, masculine, homosocial event.[22] Her inability to comprehend her breach of propriety measures the extent to which she had been corrupted by colonial conditions. Mastery threatened to unsex white women, giving them a power over their laborers that encouraged unruliness. Meanwhile, the female slave victim is, like the servants memorialized in ballads, passive and unprotesting.

Even into the mid-eighteenth century, texts such as *The Fortunate Transport* (ca. 1741–42) sensationalized extensive descriptions of the beatings and whippings suffered by unfree women in Virginia. The narrative, told, importantly, from the viewpoint of a mixed-race female slave, derides the brutal treatment of unfree laborers. For those unwilling or unable to read the full narrative, an engraving made to advertise the text captured the essential message of the tale. (see fig. 7, p. 125) Polly Haycock, the subject of the story, is a felon transported to Virginia where, as an indentured servant, she is beaten nightly. While, ultimately, the warning of *The Fortunate Transport* is that the brutality of the colonial experience might return to infect the center of the empire, the narrative itself sustains a long tradition of associating Virginia's labor system with brutal violence toward essentially unprotesting unfree women. Unlike the other women discussed in these narratives, however, Polly is rescued by a local magistrate and eventually becomes the master of a large estate that includes servants and slaves. She beats them as she herself was beaten, and the Creole slave who relates the tale judges her to be an excessive master but obediently makes no attempt to leave her service.

Violence against women and, to a certain extent as well, the particular brutality of female masters were twin peaks in printed and visual representations of Virginia. The not-so-subtle message to women who were victims of violence was to accept their lot. The "trappan'd" and "betray'd" and "creole" women looked forward to more work and more violence. Obediently, submissively, ideally feminine, they accepted their lot. Female masters, on the other hand, were directly and implicitly condemned but continued unabated in their battery of servants and slaves. All of these tales are rendered from the viewpoint of the victims and portray, albeit imaginatively, the voices of the unfree.

In practice, both indentured servants and their masters, regardless of sex, had rights and obligations that were governed by law and custom. To a certain extent, Virginia lawmakers relied on the principles

governing master-servant relations described in Michael Dalton's *Countrey Justice,* which contained an entire chapter on the obligations between servants and their masters.[23] Yet servitude in Virginia differed significantly from its English counterpart: the terms of indenture were longer, the work was significantly harder, and the amount of physical brutality allowed to masters was greater.[24] Correspondingly, Virginia laws on servitude departed sharply from the model provided by Dalton. The earliest statutes appear in the 1640s, when lawmakers enacted penalties for running away, clandestine marriage, and fornication—and specified remedies for misused servants as well as for masters who suffered retaliatory violence.[25]

Masters—whether male or female—had legitimate rights to correct their servants. Legal standards in Virginia permitted "Christian" usage or "moderate" correction, perhaps ten lashes with a riding crop, a correcting stick, or a tobacco rod. Maiming or causing long-lasting injury to the bodies of white servants was considered to be a violation of their rights.[26] While masters held a moderate power to correct indentured servants and had unlimited ability to correct slaves, they were obliged to provide indentured dependents with food, shelter, clothing, and freedom dues.

Servants had rights to complain in cases of excessive abuse as well as other forms of mistreatment, although slaves had none. Despite the fact that men outnumbered women by as much as four to one in mid-seventeenth-century Virginia, between 1645 and 1740 women comprised 36 percent of all servant petitioners in York County, which is slightly higher than the percentage of female servant petitioners in colonial Maryland.[27] And female servants were more likely to win their cases, enjoying an 89 percent success rate; for men, that success rate dropped to 81 percent.[28] Because legally proving that a master had exercised immoderate correction or failed to meet obligations was a difficult task, servants made complaints in extralegal ways that ended up penalizing them. Female and male servants might strike their mistresses and masters or run away with others or alone.[29] Servants who struck their masters could look forward to an entire extra year of service after their indenture expired. Runaways were penalized double the time of their absence; and if they ran away with slaves, they served time for the slaves' absence as well.[30]

The rights and duties of masters and servants on the frontier of seventeenth-century Virginia existed in tension with one another. Households were mixed affairs, with servants, slaves, and masters liv-

ing in close proximity. White servants, especially after midcentury, sought to distinguish their status from slaves. Slaves bristled as their avenues to freedom were shut down and their prospects of forming and maintaining families were discouraged. White women who began life as servants could capitalize on Virginia's "lively" marriage market, which might have encouraged them to have less regard for their masters' authority. Given Virginia's demographic features, changing labor systems, and underdeveloped legal institutions, the tensions between free and unfree, master, servant, and slave were all catalysts to violent outbursts and conflict.[31]

In this context, disputes between masters and their female slaves and servants reflect contests over emerging definitions of slavery, mastery, servitude, and, in particular, female dependency. As we shall see in the narratives of Mary Rawlins, Elizabeth Cole, Sarah the Mulatto, and Mary Aggie, unfree women did contest these definitions. For all four women, the psychological and emotional apprehension over challenging their masters was no doubt intimidating because it was *supposed* to be so. Mary Rawlins directed her complaints of brutality to Governor Berkeley, the highest authority in the land. Elizabeth Cole, who disputed the terms of her service, also went to the highest authorities in York County and used the power of her words to discredit her masters. Sarah the Mulatto, summoned by the justices, testified to her mistress's violation of civil and criminal law. Mary Aggie made her freedom petition to Virginia's superior General Court. These unfree women had been beaten, detained, and commanded to act so that they should recognize both the power of their masters and their relative powerlessness as servants and slaves. Yet they did not internalize this message. Transgressing her status as legally unfree, her position as a household dependent, and the conventions of her gender role, each woman employed a legal strategy designed to empower her and, as a consequence, expose and possibly escape her masters.

[My masters] would force the devill to run away from them.

MARY RAWLINS,
indentured servant (1661)

On an early day in May 1661, Mary Rawlins, a servant in York County, Virginia, made her way to Green Spring, the home of Virginia's governing couple, Sir William and Lady Frances Berkeley. Once she reached the residence, Rawlins sought out the governor and com-

plained to him that her master John Russell had "cruelly" mistreated her.[32] Berkeley apparently was moved by Rawlins's account: he immediately directed a letter to York County magistrate Joseph Croshaw and requested that he obtain a bond of security from Russell.[33] The security was, in effect, for Mary Rawlins to ensure that, in the future, she would feel secure from the blows of her master. Governor Berkeley also warned Russell that if he failed to keep the peace he would face a full quorum of the York County justices. The warning admonished York's justices as well. The governor wrote that he did "doubt not" that the magistrates would enforce the law and see that servants were "christianly used." Since the colony's statutes on masters and servants were undergoing revisions at this time, it seems likely that Rawlins's plight intersected with one of the governor's recent concerns.[34] The governor returned the maidservant to justice Croshaw, who had her examined and treated for injuries. Evidently, Croshaw summoned John Russell to appear. All of these events took place in late April and early May 1661.[35]

John Russell clearly disliked the questions about his dominion that came from both his maidservant and the governor. It provoked him further that, once he answered the summons and reached Croshaw's plantation, two more high-ranking men, both York justices, posed more questions about his authority. His wife Bridgett Russell was equally disgruntled: she "flew up to Major Croshaw's face," "clapt hir hands at him," and swore that she would get "revenge." Meanwhile, her husband accused the justices of conspiring "amongst them" to "deprive him of his servant." Captain Daniel Parke stepped in and demanded to know to whom Russell "spoake." When Russell replied that he spoke to Justice Croshaw, Parke bullied the recalcitrant master, declaring that if Russell was speaking to him, Parke would indeed "make an Answer."[36] The standoff between the three men continued; and when Croshaw asked the angry master to "take care to his Maides sad condition" and pay for her treatment and medicines, Russell exploded. He declared that before he would "bestow one penny" on Mary Rawlins, he would "venture a hanging for hir."[37] For the moment, the posturing between these men superceded the issue of the brutality visited on Rawlins.

Eventually, John Russell acceded to the request of Governor Berkeley and the local justices. On 6 May, he pledged a substantial forty pounds as a bond for his future good behavior.[38] This was a wise move: Russell was not only a landowner and a master but an active partici-

pant in the York court and had served on juries and inquests as well as litigated civil suits. By the time he cooled off, he must have realized that his contempt of the justices was foolhardy. Still, he remained adamant about the extent of his control over his household. The justices would not forget Russell's affronts and at the next court they forfeited his bond of security. The whole matter was not settled until August 1661, when Russell tendered his apologies and sold his servant, and the bond was ultimately discharged.[39]

In order to lodge her complaint effectively, Mary Rawlins needed to tell her story to men who were empowered to act on her behalf. Her trip to the governor is perhaps the most outstanding example of this. Yet for several months she had been making complaints to others, and those speeches cast her as a disorderly woman and therefore rendered her suspect to those who heard them. Moreover, because her narrative of brutality was contradicted by her ungoverned tongue, the court required no fewer than a record eleven depositions from a variety of witnesses: three fellow laborers who had witnessed her beating, two matrons and two physicians who had examined and treated her, the York constable and his wife with whom she lodged, the wife of a laborer, and Mary Rawlins's lover. It would be wrong, however, to mistake the abundance of testimony for an overwhelming amount of evidence. To the contrary, Mary Rawlins, as it turns out, was not deemed to be the most truthful of women.

Her credibility was at issue precisely because her brabbling speeches rendered her suspect in the eyes of neighbors and fellow workers. According to those in closest proximity to her, Rawlins was determined to see the Russells punished for the cruelty that she had suffered. One witness reported that, as far back as March, the maidservant answered that she was "very well" and "content" to an inquiry about her health but was discontented because Russell had "beat her [a] little" before Christmas. If ever he beat her again, she declared, she would "complaine" to the authorities and "further work her witt."[40] Rawlins was entitled to complain, but the declaration that she would "work her witt" had a more subversive edge.[41] Indeed, according to the witness, Rawlins had an ulterior motive. During their conversation, Rawlins declared that "shee would have hir freedome before whitsonday" (Pentecost) because "shee was kept from Andrew Lather hir lover by hir said Master but shee would have him at last come what would."[42] This romantic flourish might indicate to some

listeners that Rawlins was willing to bend the truth to escape from the Russell household.

The credibility of Mary Rawlins was at issue because of her brabbling speeches. She verbally declared hostility toward her masters, a stance that did not fit the ideal of a submissive maidservant and brought her veracity into question. Rawlins's angry declarations violated expectations of both class and gender. More than one witness remembered that Rawlins ominously swore to "be revenged" of her masters for their treatment of her.[43] Given her status as servant and woman, revenge might best be obtained deviously, by exaggerating or even lying. Her outbursts made her motives questionable, especially to other women. Of the women who examined her, Jane Middleton, Mary Hawthorne, and Elinor Thomas gave somewhat ambivalent testimony. Middleton supplied the motive of Andrew Lather. Hawthorne deposed that she directly asked Rawlins if she "dissembled" but was later convinced that her treatment was severe. Thomas testified without embellishment that Rawlins was bruised on the shoulders and arms but found no blows elsewhere. The physician's testimony was equivocal as well.[44]

In short, her speeches did not cohere into an entirely believable narrative for her audience. Mary Rawlins's brabbling, coupled with the lack of visible bruises on her body, unsettled the justices, examiners, neighbors, and witnesses. Even so, her experience suggests just how great were the odds faced by unfree women. Women such as Mary Rawlins depended on persistently ungoverned tongues to obtain redress for their grievances. Yet those ungoverned tongues might also prove to be their undoing.

When Governor Berkeley forced the York justices to take up Mary Rawlins's complaint, the fundamental issue in the case was the nature and extent of the brutality she had suffered. Witnesses, some of whom testified to her ungoverned tongue as well as to the extent of her injuries, and others who testified to the behavior of John Russell, can be divided into three groups. To pin down the issue of brutality, the court turned to the laborers who had witnessed the beating. Thomas Middleton, William Parman, and Edward Clarke had been at the Russell's on 29 April 1661 building a tobacco house. All three testified to a remarkably similar chain of events: Mary Rawlins quarreled with Mrs. Russell while Mr. Russell was away; the next night John Russell gave Mary Rawlins a severe beating. All three deposed that they heard

"noyse" or "scolding" between the two women and that Rawlins later emerged from the house with a black eye and bruised face. Yet because they heard rather than saw the beating, none would testify that Bridgett Russell's blows caused the bruises, which had disappeared by morning.[45] The next day John Russell beat Rawlins inside of the house and continued his blows as she ran out the door. She fell or was thrown down by Russell; none of the witnesses could say which for sure. Russell ended the episode by kicking her right elbow.[46]

The beating must have seemed out of the ordinary to the onlookers, for each watched carefully. Had these been bound laborers, we might have expected them to hedge their bets, fearing reprisals from their masters; but two of the three were free men. Only one free man, William Parman, attempted to intercede in the beating, imploring Russell to "let hir alone," whereupon Russell turned on Parman and, employing the same riding switch that he was using on Mary Rawlins, struck Parman on the back of the hand. Parman was also the only witness who mentioned that Russell was using a switch, probably because Russell had turned it on him.

It was after this beating that Mary Rawlins went to see Governor Berkeley. Once she was in his custody, York justice Croshaw requested that two women, in effect a matron's jury, examine Rawlins. It seems that this was required because her injuries were not largely visible. Two men subsequently examined and treated Rawlins. The former testified to her injuries, and the latter explained the remedies that they provided for her.

Still, even with the backing of colonial and local legal officials, Mary Rawlins did not exactly inspire confidence in her examiners. One of the matrons, Mary Hawthorne, asked the servant if she "dissembled." Rawlins denied the charge and removed her clothing, exhibiting her bruises to prove her words. Hawthorne was moved by the spectacle of the maidservant's body: she told John Russell that she "would not live" if she were his servant.[47] Another examiner, Elinor Thomas, reported that Mary Rawlins was "very much bruised and black and blew over her shoulders and Arms to the Elbows" but added that there was only "a little Redd bumpe" on her backbone and "no marke on her breast."[48] Bruises indicated the passion with which Rawlins was beaten, but the lack of injuries on her trunk (her backbone, stomach, and breast) were probably a means of establishing that her injuries were not lasting ones.

A third examiner, Henry Blagrave, a physician, inspected Mary

Rawlins twice. The first was a follow-up to the matrons' verdict, suggesting that the justices were reluctant to depend solely on their accounts. The physician deposed, consistent with the matrons, that he had found Rawlins "very much beaten and bruised uppon the upper part of her back, shoulders and armes." Yet he, too, cast doubt upon Rawlins's claims, noting that he found her to be "guilty of forward feavors" and "ever complaining" but that, admittedly, she had "enough of cause" to do so.[49]

The physician was called in again in mid-May, and his deposition indicates that after Russell had posted bond and Rawlins had been examined on 2 May, she must have been returned to the Russells' custody. Blagrave is the only witness who reveals that Rawlins made two complaints: the first was her trip to the governor's on or shortly before 2 May; the second was sometime near 16 May, when she was committed to the care of constable Horsington and his wife Dorothy. Upon the second examination, the physician found notable injuries to her trunk that had not been present in the earlier examination: her breast was "blackish," an injury, he noted, that he had not seen at his "first searching" earlier in the month.[50]

Little surprise, then, that John Russell subsequently rode up to the constable's home. Russell waved a piece of paper, claimed to have just come from the governor's house, and struck a deal to sell Mary Rawlins's indenture to Andrew Lather. Yet Russell was still rankled: he argued with the constable's wife, who would not release Rawlins without an express order from the York court. He declared that "he had power or authority . . . above [Croshaw's] or hir husbands" and that his horses "did not sweat for nothing."[51] Apparently, he wanted to relinquish the maidservant as speedily as possible. He had no wish to allow her to have at him again.

In the end, Mary Rawlins successfully compromised John Russell's stature as a master and secured for herself a greater liberty. Her persuasive plea to the governor and bodily exhibitions to the matrons and physicians established, in the face of the major doubts that she had created by her words, that her masters had excessively beaten her not once but twice. That her voice is submerged in the amalgamation of testimony from other witnesses is not all that surprising. The justices were clearly not inclined to believe much of what she had said: their order for four individuals to physically examine Rawlins despite that three men had witnessed and testified to the beating is clearly evidence of their reluctance to believe her. They did not assist her until

Governor Berkeley directed them to do so. For Mary Rawlins, the road to Andrew Lather was brokered through supplicatory and brabbling speeches, physical suffering, and serious doubt from those in positions to aid her. Her words had both recommended and condemned her, but they ultimately fulfilled her wish to go to Andrew Lather, albeit several weeks after Pentecost.

> *Comeing before . . . his Majesty's justices [Elizabeth Cole] . . . said . . . that . . . she did heare [her masters] say that there was no justice done at York County court this day.*
>
> ELIZABETH COLE,
> indentured servant (1683)

Mary Rawlins's complaints pushed her masters toward ill-considered courses of action. By exposing John Russell's brutality, she threatened his honor. When the governor moved to censure him, Russell, backed into a corner, responded by arguing with the York justices. In turn, they forced him to put up a hefty bond, as much for his disrespect of their authority as for his blows to the unfree maidservant. Yet Rawlins's speeches were a risky project: she suffered violent retaliation from Russell and faced significant doubts from the legal fraternity and even those who examined her injuries. Unlike the "trappan'd" and "betray'd" maids of the ballads, she did not silently or submissively accept her beating. Indeed, she used her powers of speech before the highest authority in the colony to protest her condition, just as she used the spectacle of her bruised body to convince those who most doubted her words.

Complaints of ill-use, such as those made by Mary Rawlins, were outnumbered in the seventeenth century by petitions from servants whose masters had failed to free them or provide freedom dues or wages. Between 1645 and 1700 in York County, for instance, thirty-eight servants (twenty-three men and fifteen women) petitioned the court for their freedom or freedom dues. As in cases of ill-usage, women had a slightly better chance of having their petitions granted by the court. But this, too, was no easy task. Indentures seem to have been much more informal in the seventeenth century than in the eighteenth, and disputes over whether or not an indenture was finished and consequently whether or not a servant was to be awarded freedom tended to be decided by the master's testimony.

In order to successfully plead for their freedom, indentured females

constructed narratives that in some way discredited their masters. They might, for instance, pit the latter against legal authorities or social betters and, in the bargain, find an opportunity to remove themselves from their indenture. Moreover, if that narrative reflected poorly on mastery and authority relations within the household—by, for instance, including images of overzealous brutality or recalcitrant masters—the tale could go far in convincing the court that its authority had been contravened. Even though petitions for freedom were not based on physical abuse, women servants usefully employed images of violence in an effort to make themselves more credible than their masters. Such women gave notice to the court that masters violated their obligations to their dependents as well as to the authority of the law. This was particularly true if they suggested that a master's contempt for his servants was matched by his contempt for the justices. Rightly framed, narratives that discredited masters could gain women freedom from their unhappy situations. Certainly, servants interested in retaliating against their masters or gaining their freedom could fabricate these narratives. Slanders, indeed, might prevail but only if a master or a household was disreputable. In the following case, the justices accepted the testimony of the unfree over the protestations of the masters.

In 1682, Elizabeth Cole decided that her indenture was up. Although she left no documents attesting to this, her state of mind seems fairly clear from the sequence of events. First, sometime in late 1682, she left her masters' service without permission. On 26 February 1683 the York order book prescribed a penalty for her absence from her masters, William and Anne Clopton: an additional forty-four days of service for her absence and an additional one pound, five shillings, or the equivalent in labor costs, which William incurred in "retaking" her. Second, at the following court in March, Elizabeth Cole petitioned for her freedom, but her plea was denied. The justices ordered her to return to the Cloptons' service and complete her indenture. The clerk noted that if she "offends" in this order, her master should report it to the court, and a justice would examine the matter. Clearly Elizabeth Cole, the Cloptons, and the justices disagreed about the terms of her service. In April 1683 the court revised its earlier decision and agreed with Cole's assessment that she was free. Clopton was ordered to pay Elizabeth Cole her freedom corn and clothes, although the records noted that she still owed him the fee for her recapture.[52]

The justices had changed their minds about Cole's right to be free for two reasons. By then, she had likely completed her term of indenture and most of her forty-four day penalty. She had also presented a narrative that had nothing to do, as one might assume, with proof, witnesses, or evidence that she had fulfilled the terms of her indenture. Rather, she produced evidence about the brabbling speeches of her masters. As it turns out, Elizabeth Cole had a sudden and important recollection immediately after the March court at which her petition for freedom had been denied. In essence, she reported to the York justices the terms of a seditious exchange that had occurred between William and Anne Clopton and the latter's son, John Dennett. According to Cole, her masters and their son attacked the honor and dignity of the York justices, who, the threesome said, had administered justice unfairly and paid more attention to the rights of the rich than to the rights of the ordinary.

The timing of this recollection was critical. Virginia was in the middle of agricultural riots in the spring of 1683, with plenty of disgruntled planters who were angry at the government's lack of responsiveness to plummeting tobacco prices. Planters had taken to the fields, destroying crops in an effort to recoup some profits. Thus, Elizabeth Cole's recollection of insults to the justices and allusions to class conflict was dangerous talk indeed. Virginia's planters were alarmed; the "rabble" was running from farm to farm pulling up tobacco seedlings; and even the "women," according to the colony's secretary, Nicholas Spencer, had "so lost their modesty" as to pick up hoes and continue the rioting apace. Little wonder that the justices immediately indicted the Cloptons and Dennett and gave Elizabeth Cole her freedom.[53]

As a servant, Cole was in a position to overhear the grumbling of her masters, and a volatile political situation allowed her to discredit them and obtain her freedom. In hindsight, her recollections might appear suspect; but York's justices accepted them without reservation because the words she relayed infringed upon their honor as justices and gentlemen. Although she was from a far different class than Lady Frances Berkeley, Elizabeth Cole seems also to have understood how she might manipulate the situation around her effectively.

The details of Cole's verbal recollection reflect her several goals: to discredit her masters by demonstrating that they had contempt for the justices as well as for their dependents and, of course, to obtain her freedom. But first things first. According to Cole, after the February

1683 court, Anne Clopton's son complained that no "justice *was done* at York County Court this day but what was done for Esquire Bray." William Clopton replied facetiously, "Noe noe Jack if there had been any done, today I should have had some done." In response to her husband's remark, Anne Clopton declared, "Noe Jack if thy father had been as rich a man as Captain Archer," a York justice, "he had had justice done him as well . . . but he being a poor man there was none." If not for the watchfulness of Elizabeth Cole, this exchange might have remained a harmless bit of grousing.[54]

The sources of the Cloptons' complaints, particularly Anne Clopton's statements about Captain Archer, are revealing. Captain Archer's "rich" justice may have been obtained at the January court in which three of his servants, all runaways, were penalized with an additional—and astounding—three years of service apiece. The records do not indicate the duration of their absence, only that the penalty also allowed for the goods with which the servants had absconded and Archer's expenditures in retaking them, neither of which was specified.[55] Recall that at that same January court the Cloptons had obtained a mere forty-four days and one pound, five shillings, for Elizabeth Cole's absence. In comparison, Captain Archer's settlement may have seemed like rich justice indeed.

Thus, two days *after* attempting to secure her freedom at the March court, Elizabeth Cole recalled a fairly damning exchange by her master and mistresses and again sought out the York justices. Her statements to the magistrates particularly attacked her mistress. Anne Clopton had not simply complained but had said to Elizabeth Cole that she "cared not" for Cole "nor for her order"—meaning, the maidservant clarified, the "York County Court's order." Apparently, Clopton resented the court's interference into matters concerning her household. In retaliation, she threatened Cole, telling her that she would "certainly baist" (thrash) her "duly every day" for the time she had to serve.[56] By recollecting her mistress's disorderly speech, Cole created an image of a violent and volatile Anne Clopton. The latter respected neither her servants nor the justices; she was an ungoverned woman in an unruly household. All of these details begged for the justices' intervention.

Elizabeth Cole's speech carried significant weight with the York justices. Without taking an additional deposition or apparently even considering whether or not she might be dissembling, the justices acted to censure the Cloptons. Although an indentured servant, Eliz-

abeth Cole had used her considerable powers of speech to turn the Clopton household on its head. After hearing her speeches, the justices issued a warrant for the sheriff to take into custody John Dennett and William and Anne Clopton. All three pleaded not guilty to the charges of contempt; but a jury found for the king, and each was fined two hundred pounds of tobacco. At the same court, Elizabeth Cole was given her freedom: the justices ordered the Cloptons to pay her freedom dues, and she remitted one barrel of corn for seven days of service and compensated them for her recovery in January. Cole's words were not simply well timed; they were carefully chosen to have maximum impact on the York justices and powerful enough to discredit her masters and gain her liberty.

> *[Betty Crompton] commanded me to go with her thither & for fear of being beaten I went with her, she being somewhat overtaken with drinke, she commanded me to take a horse from the fence & I said, Betty, I will not but I will carry you on my back and she said, you dam'd bitch, If you do not I will beat your brains out or if I cannot I will make my husband thrash you day & night.*
>
> SARAH THE MULATTO,
> slave (October 1683)

As servants, Mary Rawlins and Elizabeth Cole were successful in brokering their liberty. Doing so required that they supplicate those who were empowered to help them. Rawlins's disorderly tongue impaired her credibility and made her case more debatable in the eyes of justices. Still, her efforts pushed her masters John and Bridgett Russell toward making ungoverned speeches that went some distance in persuading the justices of her cause. Elizabeth Cole understood the value of appearing before the justices with a well-timed recollection of her masters' contemptuous remarks. In the end, both women received the liberty that they sought, discredited their masters or pushed them to discredit themselves, and succeeded in overturning the customary hierarchies of early Virginia households.

Few unfree women enjoyed that success. Sarah the "Molatto" exists as a case in point. Her voice emerges from the York County records and, relative to Rawlins and Cole, reflects the greater precariousness of her speech. She was obviously a woman of color, but her status as servant or slave is undeterminable. She did not come to court to make a complaint. Rather, the justices required her testimony in order to clarify the actions of her masters. Because Sarah's testimony detailed the

ill courses taken by her masters, and because there was apparently no question of gaining her liberty, her words doubly endangered her. Whatever she said, she would return to the service of her masters. Despite that Sarah's testimony thoroughly condemned her masters and exonerated herself, she may not have welcomed this opportunity to speak in the official setting of a county court. She had, however, little choice: she was commanded to do so by the York magistrates. And, in effect, her brabbling speeches served the public interests of those local justices: they sought to punish her masters and were unconcerned with any private retribution she might suffer for her testimony. Her declaration was a perilous route to vindication.

One reason to conclude that Sarah was a slave is reflected in the form of her testimony: the clerk recorded it as "The Declaration of Sarah the Molatto."[57] (see fig. 6) A declaration was an unsworn statement entered into evidence; Sarah's declaration was given in "open Court." If she was a slave, the York justices likely would not let her swear an oath to her testimony concerning her white masters.[58] In contrast, evidence provided by other witnesses in the case (as well as in all other evidence analyzed in this book) occurred as sworn depositions or *viva voce* testimony. Virginia's local courts evidently decided about the use of black or slave witnesses on a case-by-case basis. Statutes did not expressly prohibit such testimony until 1705, when a law banned free and slave blacks, among others "not being christians," from acting as witnesses, and again in 1732, when a law prohibited blacks, whether slave or free, from offering testimony or evidence except at the trials of other slaves.[59] Justices in York no doubt found it expedient to use Sarah's testimony for two reasons. First, she was the only witness to a chain of events that they were investigating. Second and more important, her masters had expressed contempt for the justices' authority and the king's peace. If they were to convict Charles and Betty Crompton on both counts, they needed Sarah's testimony. Under their command, she acted as a witness.[60]

The voice of Sarah the Mulatto exists in the court records because of the actions of her masters, Charles and Betty Crompton, and the desire of the justices to see the Cromptons punished. The Cromptons were involved in a series of disputes: Betty had detained a saddle belonging to John Hall, and Charles had threatened York justice Colonel William Cole when he tried to settle the matter.[61] During the course of their conversation, Charles Crompton had, "in a great passion," sworn oaths and brandished his gun, declaring that he would not lay

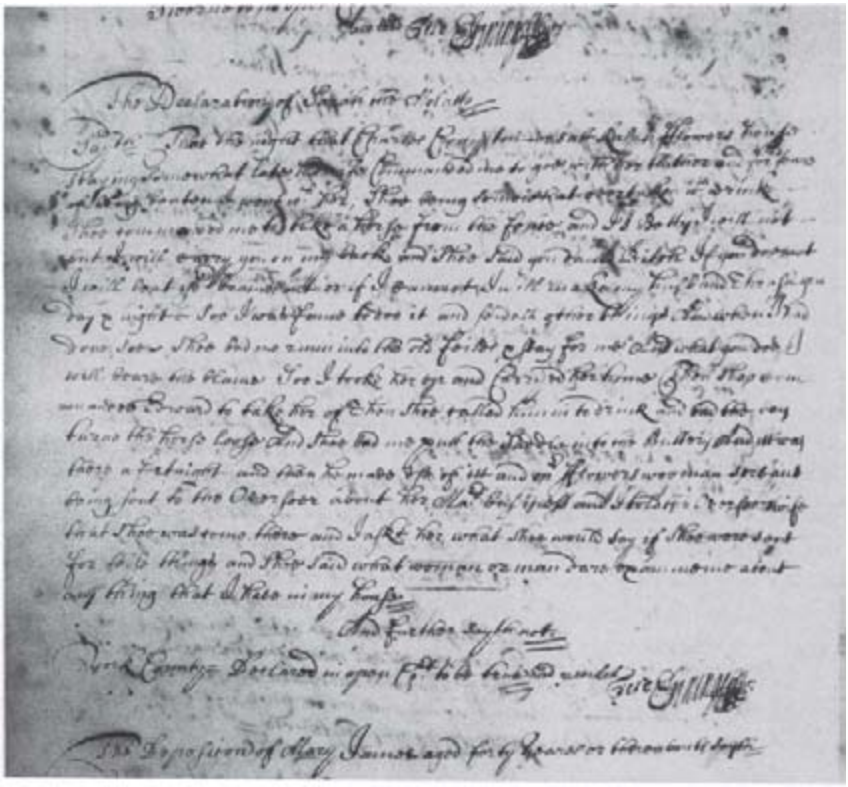


Figure 6 "The Declaration of Sarah the Molatto," 1683. Courtesy of the York County Circuit Court, Virginia.

it down, "not for any Col[onel] in the land and that if any sher[iff] or any man else laid hands on him he would be the death of him."[62] Moreover, he attempted to set fire to Cole's tobacco house and, when the wind blew out his torch, broke down its door with an ax. The York justices charged Crompton with sedition, reporting that he had "taken to woods armed and with threatening speeches," declaring that he would be the "death of any persons that shall lay hands" and, for good measure, threatening to "sett on fire and burn houses." The magistrates commanded that the York County sheriff raise a posse, seize Crompton, and convey him to the General Court. If the sheriff failed to do so, they warned, he would "answer the contrary at his perrill."[63]

Sarah's declaration carried the dispute back to its inception because

she was with Betty Crompton on the night that she detained the saddle. According to her statement, Sarah had unwillingly abetted her mistress; but all of her attempts to dissuade Crompton brought only threats and suffering. Thus shaped, Sarah's narrative demonstrated that her actions were obtained under the threat of violent coercion. On the evening in question, Betty Crompton had "commanded" Sarah to accompany her. Sarah did so reluctantly, agreeing only out of "fear of being beaten." Crompton then "commanded" Sarah to take John Hall's horse from the fence. Sarah protested. The horse, after all, did not belong to the Cromptons; and her mistress's judgment, Sarah noted, was clouded, she being "somewhat overtaken with drinke." So she told the justices that she countered by offering to carry her mistress on her back. Crompton's rejoinder was immediate and violent. "You dam'd bitch," she began, "If you do not I will beat your brains out." Sarah gave no indication to the court that this kind of threat was unusual in her experience, but she did take the opportunity to quote her mistress at length. If Betty Crompton could not beat Sarah to her satisfaction, she promised that she would "make my husband thrash you day & night."[64]

Sarah's declaration established that her actions were compelled through the threat of violence. She did this not to excuse herself from any criminal act; as far as we know the York court did not believe that she had abetted her mistress. Instead, by putting *her* story of *her* treatment front and center, she pushed the court toward an awareness of the brutality of her mistress. Her narrative explained that she knew that her mistress's request was wrong and that she would not have taken the horse and saddle except for the threat of physical violence or even death. Perhaps she had already suffered under the Cromptons' hands.

Sarah placed the blame for the purloined saddle squarely on the shoulders of her mistress and, in doing so, had power over the latter that she probably did not often experience. It is intriguing, then, that she chose this moment to gently equivocate. Her representation of her mistress abruptly changed from one based upon commands and threats to one characterized by bidding and protection. After Sarah had secured the horse and saddle, Betty Crompton then "bade"—apparently no longer demanding but asking—Sarah to take refuge in the tobacco fields. More fantastically, Crompton assured Sarah that for "what you do" she herself would "bear the blame." Once home, Crompton again "bade" Sarah to "put the saddle into the buttery," where it stayed for a fortnight.[65] Having obtained her slave's coopera-

tion through coercion, Crompton assured Sarah that she would protect her from being punished for the way in which she had forced the slave to act. This was, perhaps, a way of obtaining Sarah's silence.

As the sole witness to testify to the full gamut of Betty Crompton's actions, Sarah held a substantial amount of power over her mistress. In concluding, Sarah once again performed a kind of reversal, testifying to Crompton's belief that her household was inviolate. Surely this detail would cause the York justices some consternation. A neighbor's woman servant was sent to the Cromptons' about her master's business. Sarah informed Betty Crompton that the servant was coming and asked her "what she would say" if the servant came for the saddle that languished in Crompton household. Betty Crompton replied, not very calmly, "what woman or man [would] dare to examine about any thing that I have in my house?"[66] The York justices certainly could and would do so. Thanks to Sarah and the power of her speech, they would be able to see into the furthest recesses of her mistress's buttery.

> *[N]ot long before she had, upon some pretence, I forget what, sued for her Freedom in the General Court.*
>
> GOVERNOR WILLIAM GOOCH
> (1731)

Like many slaves in early Virginia, we do not know when Mary Aggie was born or what eventually became of her. Aggie first appears in the York County records in 1720 as part of the estate of David Cunningham, a tavern keeper, barber, and wig maker in Williamsburg. In his inventory she was listed as a "woman" valued at twenty-five pounds, more or less equal to that of other slaves listed. It appears that Cunningham may have purchased her from Susanna Allen, another tavern keeper. After his death, Aggie was sold at public auction and came into the possession of Anne Marot Sullivant, yet another Williamsburg tapster. Given her connection to Cunningham, Allen, and Sullivant, it seems likely that Aggie labored in their taverns and at their homes as well. Her age in 1720 is indeterminable, but she was probably at least twenty-one.[67]

After Mary Aggie arrived in the Sullivant household, we do not hear of her again until 1730, when she appeared before the York County court on a felony charge of theft. But according to Governor William Gooch, shortly before that court appearance, Aggie had attempted to gain her freedom by presenting a petition to Virginia's General Court. The petition itself does not survive (nor do the superior court records),

so Aggie's reasons for making the petition—that is, her explanation for why she should be free—as well as the words she chose to use are unavailable to us. Whatever the exact terms of her plea, however, Gooch found them memorable. When, in 1730, Mary Aggie once again came to the attention of Virginia's legal system, he remembered her appeal for freedom and was moved enough by it to undertake action on her behalf.

Most of the events of Mary Aggie's life are shrouded from view; but even though her actions are largely invisible, some clues about her can be deduced from those of her owner, Anne Marot Sullivant. Sullivant's first husband, John Marot, a tavern keeper, died by 1717 with a respectable estate; she married Timothy Sullivant about a year later.[68] She continued to run Marot's tavern and faithfully renewed her ordinary license.[69] When Mary Aggie entered the Sullivant household, she joined four other female slaves, four slave children, and two male indentured servants.[70] The heavy emphasis on female slaves suggests that they worked as domestics. Along with them, Mary Aggie doubtless labored at a variety of chores (such as cooking, cleaning, serving, and washing) connected with the business of the ordinary as well as the maintenance of her mistress's household. Whether or not she had children is unclear. Given later events, one wonders at Mary Aggie's experience in the Sullivant household and tavern. Did anything specific cause her to make her petition to the General Court? How did her masters greet the news of her petition?

Despite these uncertainties, two things are evident. First, sometime before 1730, Mary Aggie sued for her freedom. Second, in that year she was convicted for theft. All that we know of her petition for freedom comes from a letter written by Governor William Gooch, who found her plea to be made "under some pretense." Yet in the course of her petition, Aggie apparently spoke ardently about her faith in God. Although Gooch dismissed her appeal for freedom, he later recalled that when she was examined about her "Faith," she gave a "tolerable account" of her beliefs. While her statement was memorable, such demonstrations of Christianity had long ceased to be viable avenues for gaining slaves their freedom in early Virginia.[71]

In the end, however, Mary Aggie's declaration of faith proved to be useful to her. In September 1730, she was indicted by York County for stealing three sheets and various other goods from Anne Sullivant. The value of the stolen property was found to be forty shillings, enough to make the theft a felony for which she could hang. Upon her

arraignment on 7 November, Aggie entered a plea of not guilty. The court disagreed. Later that month, she appeared before the justices at York's oyer and terminer court and faced a death sentence. When she was "set to the bar" and asked "why sentence of death should not pass against her," she "prayed" for benefit of clergy.[72] Benefit of clergy was a legal mechanism by which, at first conviction, felons could escape the worst punishment for most capital offenses by rudimentary demonstrations of literacy.[73] That privilege was not yet granted to slaves in Virginia; it appears that Mary Aggie was one of the first, if not the first, slave to invoke this plea. The York justices were stymied.

How had this all come about? As it turns out, Gooch had heard of Aggie's arrest. More important, he had remembered the "tolerable account" she had given of her faith in her petition to the General Court. He dispatched a lawyer to attend her trial at York and instructed him, if Aggie was found guilty, to inform the court that, "notwithstanding she was a Slave," it was Gooch's opinion that "as a christian, she was Intitled to the benefit of the Clergy." The York justices were deadlocked on the case. Gooch, "fearing it might go against her" if the case remained at York, requested an appeal to the General Court. In doing so he sought, as he wrote to the bishop of London, to have the matter tried in the "most public manner" by Virginia's "best Lawyers" as a "thing of great consequence by which all the courts in the country for the future should govern themselves." In other words, he wanted the judges to set a precedent that benefit of clergy should extend to any "Christian," even "a black one."[74] The General Court, too, became deadlocked. Gooch then appealed the case to the solicitor and attorney general of England for review, arguing that no law existed against giving benefit of clergy to slaves; had one existed, he asserted, it should be repealed. In the meantime, however the pressing issue of Mary Aggie's sentence remained. Gooch convened the Executive Council of the colony, which ordered that a "pardon be prepared" for Mary Aggie upon the condition that she be transported out of Virginia and sold as a slave.[75]

No other records of Mary Aggie have been brought to light, but the significance of her words was far ranging. Her declaration of faith—her words—echoed in the ears of the powerful William Gooch. Because of them, he pressed Virginia's lawmakers to offer benefit of clergy not just to Aggie but to all Virginians, regardless of race or condition of freedom, as long as they were baptized. And he succeeded. In 1732, less than one year after Mary Aggie's plea, Virginia's burgesses

enacted "An Act for settling some doubts and differences of opinion, in relation to the benefit of Clergy." The new law extended benefit of clergy to any "Negro, mulatto, or Indian whatsoever." Literacy was not a requirement, but offenders were to be burnt in the hand or suffer any other corporal punishment ordered by the court. Benefit of clergy provided an escape from a death sentence for first-time convicted felons, but the law was not an entirely positive gain for slaves and people of color. By its terms, greater numbers of felonies were exempted from clergy. Moreover, the law stipulated that no "negro, mulatto, or indian, slave or free," could be sworn as witnesses or give evidence in any legal suit except for capital trials of slaves. The justification for the latter, as given in the text of the law, was that these were people of such "base and corrupt natures" that their testimony could not be credible.[76] To a certain extent, the passage of the act reflects Gooch's increased political clout in the spring of 1730: the arson and riots sparked by his tobacco inspection act had rallied the legislature to his side. Surely the act dispensed mercy and saved the lives of slaves and other people of color: Philip J. Schwarz estimates that at least three hundred enslaved defendants in Virginia successfully pleaded benefit of clergy between 1734 and 1784.[77] Just as surely, it in no way compromised the institution of slavery or diminished the power of slaveholders.[78] Such was the mixed legacy of Mary Aggie's words.

Although they were unfree, Mary Aggie, Mary Rawlins, Elizabeth Cole, and Sarah the "Molatto" employed powerful speech and gripping narratives that allowed them to broker their conditions. Yet it would be a mistake to think that these supplicatory speeches, on their own merits, moved justices and lawmakers. Wittingly or no, each woman successfully enlisted men empowered to act on her behalf. Not only did slave Mary Aggie and servant Mary Rawlins gain the attention of colonial governors, but they also moved those men to push for legislation that, in part, aimed to show limited mercy to slave felons and ease the lot of servants.[79] Mary Rawlins, Elizabeth Cole, and Sarah the Mulatto reversed the hierarchies of their households, convincing the justices of the brutality, contempt, and crimes of their masters; but they had a healthy respect for the power of the local court. Without the aid of the justices, the words of these women would not have counted for much. Nor would those speeches have mattered so greatly if their masters had not also disrespected the justices. Still, we

would be remiss to conclude that the actions of these unfree women yielded little. Mary Aggie saved her own life, which, in turn laid the groundwork for sparing the lives of other slaves convicted of felonies. Mary Rawlins and Elizabeth Cole obtained their liberty and saw their masters strongly censured. The consequences, if any, for Sarah the Mulatto are unknowable. Although Charles Crompton was found in contempt of court and eventually had his estate seized for the value of the saddle detained by his wife, their future treatment of Sarah is shrouded in their privilege as masters.

Given the right circumstances, unfree women could resist their constraints; and the stories of these four women reflect the various ways in which they might do so. In part, their experiences were influenced by the changing nature of servitude and slavery in Virginia. By 1661, when Mary Rawlins rode to the governor's house to make her complaint, indentured servitude distinctly differed from its English antecedents. Servants served longer indentures in isolated households far from the protections of family and kin. Along with growing numbers of slaves, servants fueled revolts, engaged in work slowdowns, and struck their masters.[80] Others despaired: between 1657 and 1666, at least twelve servants in York County alone committed suicide.[81] Unfree women such as Mary Aggie, Mary Rawlins, and Elizabeth Cole took another route. They understood that the legal system held out a slender hope of protection for their rights. As the seventeenth century gave way to the eighteenth, the reliance on slave labor and the law of slavery measurably increased the legal and social distance between Rawlins and Cole, on the one hand, and Aggie and Sarah, on the other.[82] That distance testifies to a decidedly upward shift in the power of the judiciary and the state over slaves. While Mary Aggie's case suggests that a move toward paternalism in master-slave relations was underway in the early eighteenth century, it also confirms the great extent to which the law of slavery sharply reinforced patriarchal power of the state. Still, through a combination of ardency, brabbling, timing, and supplication, the voices of these unfree women offer rich instruction in the ways in which, through their words, slaves and servants might obtain relief from the courts and the law.

5 Widows, Fictive Widows, and the Management of Households

We Rich Widows are the best Commodity this Country Affords, I'll tell you that.

APHRA BEHN,
The Widow Ranter; or the History of Bacon in Virginia (1690)

WHEN KATHERINE THORPE died in 1695, she left a curious and controversial legacy. Thorpe, a wealthy York County widow, made a deathbed bequest that put James Whaley in full possession of her estate. According to the two women who attended her final days, Thorpe swore with great "ardency" that Whaley was her "husband before God" and, had a minister had been present, she would have a marriage solemnized between them. She wanted to marry Whaley, she declared, in order to "putt him in possession" of her estate so that he "may not suffer wrong." When Whaley walked into the room, Thorpe repeated the same words with "earnestness and vehemency."[1] Not surprisingly, given their losses at the expense of her romantic sentiment, her heirs immediately began litigation against Whaley. The widow's power over her estate was, however, as large as she believed it to be. Regardless of what her relatives thought, Thorpe's ardent, repeated speeches succeeded in dispersing her property as she saw fit.[2]

In seventeenth-century Virginia, elite widows such as Katherine Thorpe often commanded power over their households, even after death. Many widows, however, found it expedient to wear their authority lightly. Threats to their dominion potentially came from several quarters: unruly servants and slaves could be unwilling to obey their commands, neighbors were not always inclined to respect their property, and legatees might disagree about inheritances. When it came to managing their estates, widows, theoretically the most independent of women householders in early America, might find themselves to be the most vulnerable to conflict. The best means of keeping

order among their servants, slaves, children, and neighbors was to enlist the aid of the local legal fraternity to assist them in managing and protecting their authority.

In order to manage their households, widows often chose a course of words and actions that emphasized their dependency as women and diluted their independence as widows. In 1681, for instance, York County widow Elisheba Vaulx quarreled with her recently freed maidservant, Elizabeth Mullins, over the servant's indenture. Mullins had apparently conceived a pregnancy before completing her term of service, although she was free when her child was born. Vaulx wanted the maid to serve the standard penalty required by Virginia statute: two years of extra service. Mullins apparently disagreed. Vaulx sought to resolve the matter but did not go to court herself. Perhaps she was tired of arguing with the recalcitrant maidservant. The latter had grown so "high and soe [peremptory]," Vaulx complained, that she could "scarce speake to her." Instead, she sent specific directions to her attorney, requesting that he "speake" for her and say that Mullins should be sentenced "according to the act of Assembly." In parting, Vaulx pleaded with the attorney to "pray Assist me in what lyes in your power."[3] Because her own authority failed to awe Mullins, Vaulx may have reasoned, the lawyer and justices could inspire in her the proper respect and deference for her superiors. Her chosen strategy, then, was to turn the debate over Mullins's term of service to empowered men.

While this exchange highlights the difficulties that free widows, even elite widows, might experience in their households, it also suggests that they managed such conflicts with a nuanced choreography. Widows such as Vaulx who were literate, understood the law, and could afford to arm themselves with lawyers were able to negotiate their conflicts and maintain their authority without transgressing their gender roles. Elisheba Vaulx favored deference and compromise, preferring to adjudicate her disputes in the legal forum. Moreover, her approach to managing her household differed significantly from that of other masters. As we have seen, John and Bridgett Russell, William and Anne Clopton, and Charles and Betty Crompton felt unequivocally entitled to employ threatened and real violence to control their dependents. For many masters, in fact, Elizabeth Mullins's affronts would have gained her physical correction. The maidservant had, after all, gainsayed her superior and violated a basic tenet of household authority. Rather than violence, however, Vaulx chose supplication.

Her written appeal to the York justices cited her ineffectual authority ("I can scarce speak to her") and the maidservant's sense of entitlement ("she is growne so high") and relied on the justices to settle the matter.

In early America, a widow such as Elisheba Vaulx occupied an ambiguous and liminal position.[4] She was, to begin with, a *feme sole* and assumed many responsibilities typically exercised by free white men. She had authority over children, servants, and slaves and assumed a legal independence that freed her from the strictures of coverture. She could make contracts, sue and be sued, collect or engender indebtedness, and distribute her property through deeds or a will. Yet she distinctly lacked male privileges: she could not vote or serve on juries, hold public office, or serve in militias. Widows were "simultaneously both male and female," and as a result, they were often at the center of conflicts.[5]

Early Virginia had its share of both actual widows and what Mary Beth Norton has termed "fictive widows."[6] In New England, this group included mostly high-ranking wives whose husbands proved "unwilling or unable to govern them."[7] In Virginia, as we shall see, fictive widows could encompass poor white and free black women as well. These women, sometimes by choice and sometimes by necessity, moved beyond their roles as wives; collided with the formal, public world of men; and were a source of disorder in early American communities. To a certain extent, wives were expected to be able to act for their husbands when necessary. As "deputy husbands," wives often shouldered male duties and, when necessary, became surrogates for them, handling economic affairs, appearing as attorneys in court, and in general representing the household in civil and financial matters.[8]

Still, a deputy husband, after all, was a *feme covert;* and under the system of coverture, part of Virginia's common law inheritance from England, a wife's legal identity was merged with that of her husband at marriage. In theory, husband and wife assumed a unity of person. Unlike widows, married women had no legal identity separate from their husbands, with a few important exceptions. A wife could, for instance, with her husband's consent secure legal status as feme sole trader so that she might carry on a business, execute contracts, or sue or be sued, none of which she could do as a feme covert.[9] If husbands were often absent, wives could be empowered formally to act as independent agents or attorneys for their husbands, becoming, in effect,

the legally appointed public face of the family.[10] When a wife possessed or inherited property, her husband held extensive curtesy rights in that property. He could manage it and profit from its use, but he could not waste or alienate it without her express consent.[11] Despite the restrictions and exceptions to coverture, deputy husbands could shade into fictive widows when they expressly stepped outside the role of surrogates to transgress gender roles.[12]

Free black women were also deputy husbands and fictive widows, and their experiences complicate our understanding of gender and authority in early Virginia. According to Kathleen M. Brown, by the early eighteenth century, most free black families were probably living in households headed by women.[13] Some of these women were married to slaves, while others were single heads of households. As the legal heads of the family during the racially charged atmosphere of the early eighteenth century, they endured continual threats to their households, the most grave being that their children might be sold into slavery. Thus, free black women took a variety of legal measures to protect their families and ensure the future freedom of their children. They indentured their offspring, requiring that they learn a trade or be educated, and watched to ensure that those rights were met. They litigated with recalcitrant masters who failed to fulfill the terms of the indentures or abused their children. Yet despite their status as free women, because they were women of color, the courts could be unresponsive to the most persistent of petitioners.[14]

In York County, actual and fictive widows differed sharply in their words and behaviors. The former might partner themselves with the court and assume the role of deputy husbands; fictive widows, in contrast, assumed the authority of free white men, usually with disagreeable consequences. Importantly, whether a wife was a fictive widow or a deputy husband depended upon the point of view of onlookers. Recall that Bridgett Russell, for instance, felt no qualms about beating Mary Rawlins. Because her husband was absent, she was in charge of meting out reasonable physical correction; and her husband, as well as any justice in Virginia, would have supported her right to do so. From their viewpoint, she was acting as a deputy husband because, in theory, mistresses as well as masters were entitled to correct their servants and slaves. In practice, however, the use of disciplinary violence by wives met with resistance: from a laborer's point of view, a wife who wielded violence had transgressed the boundaries of gender. She was a fictive widow. An actual widow such as Elisheba Vaulx, on

the other hand, took pains to stay within her gender role when administrating the duties of her household. For a wife like Bridgett Russell, not doing so risked violent retaliation.

This chapter explores the strategies employed by both actual and fictive widows to master and manage their households. Widows, particularly elite widows, seemed to have been well aware that female authority was fragile. Hence, they often found it most expedient to choose narrative strategies of supplication, negotiation, and compromise to reinforce their authority. If they could afford to do so, they enlisted the aid of the local legal fraternity as well; but this was not a route open to all women. Fictive widows, even those of fairly low rank, were more assertive in their authority. Like Bridgett Russell and Betty Crompton, they threatened and commanded not only servants but, as we shall see, neighbors as well. Their efforts were often rewarded with retaliatory brutality. Free black fictive widows were concerned about protecting their children rather than controlling their dependants. Their legal acumen and indefatigable efforts were directed toward preserving a precarious freedom for their families. Although Virginians were notably less concerned than their northern neighbors when it came to enshrining the cultural ideal of the good wife, the experiences of actual and fictive widows as well as single heads of households suggest that the notion was anything but foreign to them.

To reveal how a variety of widows and fictive widows governed or attempted to govern their households, this chapter focuses on a cluster of cases that reflect the words and actions of widows and fictive widows employed in managing conflicts and maintaining authority in their households. Unlike the women discussed in previous chapters, the voices of women who headed households exist, ironically, as fragments. For the most part, the court orders do not record any extended narratives by or about them but contain only snippets of speech as clues to their reception and management of conflicts. From the accumulation of these details, it is clear that widows faced serious challenges to their authority, most of which came from their dependents but some from neighbors as well. As heads of households, widows often sought the court's protection when their authority or property was threatened. But while they were vulnerable to threats and depredations because they were unhusbanded (that is, precisely because of their liminal status), their narrative strategies offered to the court contradicted any assumptions that they were independent women. In-

stead, their narratives asked the justices to take on, in effect, the role of husbands. Fictive widows, on the other hand, confronted these challenges much more directly and asserted their authority more freely. Fictive widows, usually while their husbands were absent, beat their servants and threatened free men and were perceived to have engaged in egregious violations of gender roles. Correspondingly, they were punished for their transgressions in an extralegal manner: servants and neighbors struck back. Before we turn to these stories, however, it is useful to consider more closely the terms of widowhood and coverture in early Virginia.

Widows in Practice and in Print

If it is difficult to measure a widow's authority in early America, this is true because, in part, early Americans found dealing with the concept of a widow's authority problematic. Widows occupied an anomalous position. Bracketed by the terms of their husbands' wills or intestacy statutes, widows, like free male householders, assumed economic responsibilities but, like other women, lacked membership in the formal public.[15] The trouble posed by widows—their seeming ability to cross gender boundaries—often created difficulties that they carefully negotiated. To measure the power held by widows, historians have studied testamentary practices and executorship, intestacy statutes, and dower rights.[16] While these explorations tell us a great deal about what widows might expect or feel entitled to after the deaths of their husbands, they do not go far in explaining how the dynamics of households were altered by the departure of husbands or how widows used their newfound—and not necessarily welcome—powers of independence.

In the seventeenth century, Virginia's widows enjoyed generous benefits relative to their counterparts in other North American colonies. They received much more favorable treatment from the terms of inheritance laws than did widows in New England, the middle colonies, and England.[17] Virginia's intestacy statutes guaranteed a widow's dower as a one-third—or, if childless, to one-half—life interest in real estate and absolute interest in personal property, which until 1705 included increasingly valuable slaves. Husbands who wrote wills, of course, could give more than the amounts specified by intestacy statutes but not less. All widows were allowed to remain in their homes until the dower was assigned rather than for the forty days allowed by English law.[18] In contrast, by the beginning of the eighteenth

century most colonies guaranteed a widow's dower in real estate only; and by 1706 widows in England no longer enjoyed dower interest in personal property.[19]

If the law in seventeenth-century Virginia benefited widows, so did testamentary practices. Maryland testators named their widows as sole executors of their estates, left them large estates, and often allowed them complete freedom in disposing of their legacies.[20] When husbands in York County wrote wills, their widows received sole executorship of their husbands' estates in 70 percent of the cases studied between 1660 and 1699, a percentage that did not fluctuate appreciably in the seventeenth century.[21] Additionally, the court nearly always appointed widows to administrate the estates of husbands who died intestate.[22] Aside from executorship, the terms of wills were relatively generous in the seventeenth century. Between 1660 and 1699, for example, 15 percent of York County testators devised their estate to their widows and "her heirs" (an important stipulation because under common law the estate would descend to the heirs of the testator), while 35 percent of testators left absolutely no stipulations on their widows' legacies.[23]

For all of these reasons, widows in seventeenth-century Virginia stood in a superior legal and financial position relative to their counterparts in England and New England. If we measure by traditional indices of power accorded to widowhood—intestacy statutes, definitions of real and personal property, and testamentary practices—widows in Virginia were positioned better than most widows in the seventeenth-century Anglo-American world.

Print as well as practice, however, belied certain anxieties about the widow's control over property and the agency that such control might afford to her. The trope of the rich, powerful widow was reiterated in early modern English print culture, much of which exploited the image of the independent and aggressive widow. Moreover, texts represented Virginia widows and fictive widows in various ways that emphasized their autonomy, sexuality, and violence.[24] As discussed, Aphra Behn's play, *The Widow Ranter; or the History of Bacon in Virginia* (1690), recounts the exploits of a bawdy, imbibing, cross-dressing widow who comes to Virginia as a servant, marries a rich planter, and inherits his fortune. Her widowed status sanctions a questionable agency that allows her not only to objectify and command men but also to pursue them for sexual pleasure. The audience no doubt approved that she was safely contained within marriage at the end of the

play. Moll Flanders's pursuit of a husband is successful precisely because she presents herself as a rich Virginia widow, a testimony to the power of the widow as well as her image.

The portrait of the Virginia widow is somewhat softened in *Fortune's Uncertainty, or Youth's Inconstancy* (1667); but in the main it, too, emphasizes the unnatural ability of a widow to master men. After several misadventures, Rudolphus, the subject of the chronicle, is transported to Virginia for a stint of indentured servitude. A widow purchases his indenture, although she appears to be interested in more than simply his labor. She announces that he is to be "her own Slave" and ironically gives him the liberty to come and go as he pleases.[25] In other words, she uses her power to bestow upon him the liberties of a free man yet simultaneously reminds him that he belongs to her. Although Rudolphus finds the widow "Charitable," he is apprehensive about her power and ultimately leaves her service because her "respect" for him is more than "ordinary." He fears her: she has it in mind to marry him; and he believes that if he refuses her, she will become one of the "worst things breathing."[26] In *Fortune's Uncertainty,* the widow's sexual avarice is somewhat softened by her benevolence; but the fear of her power to master and the danger of her unrestrained passion prevail as the dominant images of the widow's authority.

A more damning portrait of the widow's power emerges in *The Fortunate Transport* (ca. 1741–42), which chronicles the career of Polly Haycock. (see fig. 7) Like Moll Flanders, Haycock rises from orphan to plantation mistress. En route, she serves a stint as an indentured servant in Virginia, where a "cruel, haughty, and mercenary" planter regularly strips and beats her until covered in a "gore of blood."[27] She embarks on an affair with a ship's captain and escapes with him to Jamaica. He dies, and she inherits his substantial fortune; she returns to live in "splendor and affluence" in England.[28] Once widowed, she replicates the brutality with which she was treated as a servant in Virginia. Her prosperity as feme sole is matched by her moral degeneracy. Having imbibed "too much the spirit of the planter," she beats her servants and slaves as brutally as the "Virginian savage" beat her.[29] The uncontrollable passion of the widow is hyperbolic, in part, because of the image of her violence and also because the mixed-race Creole servant or slave who narrates the story establishes legitimate reasons for fearing her mistress.

Fictive widows hardly fared better in print culture. One portrait emerges from the biography of a criminal. *The Vain Prodigal Life and*

Figure 7 *The Fortunate Transport,* 1741. Courtesy of The Lewis Walpole Library, Yale University.

Tragical Penitent Death of Thomas Hellier (1680) is a pamphlet that describes the circumstances under which the unfortunate Hellier came to Virginia; worked as an indentured servant in Charles City County, Virginia; and eventually murdered his master and mistress. Hellier indentured himself as a tutor; but when he arrived at the farm, improbably called "Hard Labour," he found no children to teach and was put to work in the tobacco fields, where he resigned himself to hoeing, weeding, and chopping.[30]

In explaining what drove him to murder, Hellier focuses on his mistress, a fictive widow married to "Cutbeard Williamson." Hellier confesses that although he found his labor to be "irksome," he could have borne his duties had it not been for this woman who "embittered" his life and made everything "burdensome" to him. Eventually, he was driven to murder because of the "unworthy ill-usage" that he "received daily and hourly" from his "ill-tongued mistress," who would "not only rail, swear, and curse" at him in the house but also "like a live ghost would impertinently haunt" him "when [he] was quiet in the ground at work." Although he "silently wrought as fast as she railed," plying his "labor without so much as muttering at her, or an-

swering anything good or bad," all the silence he offered "would not harm her vile tongue."[31]

Hellier's portrait of his carping mistress is echoed by the minister who heard Hellier's confession, wrote it down, and contributed his own "Reflections" to the criminal's narrative. Both viewpoints frame Mrs. Williamson as a scold, an unruly woman with an ungoverned tongue who deserved her fate. Like Hellier, the clergyman blames Mrs. Williamson for "exercising her perniciously inventive fancy in heaping on him ironical invectives." Hellier, the clergyman argues, was driven to murder by the "implacable tongue of that shrew his mistress," whose continual "taunts and jears, oathes and curses" and "tyrannical passion" were insufferable. In case someone has missed the message, the minister concludes that the "immediate provocation prompting and inciting" Hellier to give way to "Satan's suggestions" was the "bitterness of his ill-tongued mistress."[32]

Finally, Virginians themselves exhibited distinct apprehensions about the powers of widows. William Byrd I, for instance, wrote repeatedly and disdainfully about the remarriage of his twice-widowed aunt, Sarah Stegge Grendon Braine. Shortly after Thomas Grendon's demise in October 1684, his wife Sarah Grendon married Edward Braine, a man, Byrd wrote caustically, who was a "stranger to all here but pretends to bee worth money." Byrd reserved the larger share of his enmity for his aunt. To one correspondent he wrote that if Braine was not wealthy, "the old woman may thanke her selfe."[33] To another he confided that the "good old woman (that shee might loose no time) married again to a stranger."[34] Then his anger toward the widow, her agency, and the fact she did not consult him turned venomous. She remarried, as Byrd wrote to two separate correspondents, because she could not endure to "lie alone" and was not content to "be alone."[35] The real source of his anger, much like that of his son after him, originated in a woman's control over him. Byrd the elder objected to his aunt's control over his property. According to Kenneth A. Lockridge, the younger Byrd's "patriarchal rage" sprang from women's sexual, rather than financial, autonomy.[36] Apparently, Sarah Stegge Grendon Braine obtained a "very firme bond" that, Byrd believed, would "sweep away all the Virginia estate."[37] "Unavoidable," he wrote to another, "the old woman will . . . carry away all [in Virginia]."[38] The widow's power, it seems, sprang from her control over household and capital, which in turn licensed her sexual agency and deprived men of their right to control things for her.

By the terms of Virginia's inheritance law, testamentary practice, and definitions of real property, Virginia's elite widows indeed were powerful. The images from print culture suggest this power was to be feared because the independence it granted to widows reached beyond their control over property to their control over men. According to print culture, as *feme soles,* widows were free to indulge their passions through sexual aggression, mastery, violence, and remarriage. Potentially, widows infringed upon the province of men, transgressing the boundaries of gender and authority.

In law and in print, then, Virginia widows were accorded significant—and significantly dangerous—power. Yet that power was problematic. If we turn our attention to widows who managed their households, we see that their power was complicated by their class, the number, if any, of servants and slaves that they managed, and their knowledge and understanding of the law and local legal culture. It may be an irony of seventeenth-century Virginia that widows, supposed and depicted as the most independent of women, in many ways found it expedient to act as ideal dependents. Rich widows may have been, in the words of Aphra Behn, Virginia's "best commodity," but in part their value lay in the way in which they embraced traditional gender roles. Fictive widows, however, were striking contrasts to this model. These women, who in theory ought to be under the control of their husbands, often acted with the most freedom.

> *Pray Assist me in what lyes in your power and you will oblidge her who is your friend to Command.*
>
> ELISHEBA VAULX,
> widow (1681)

We return, then, to Elisheba Vaulx. In addition to the difficulties of dealing with Elizabeth Mullins, Vaulx faced other problems in the household that she headed. Vaulx was a high-ranking woman married to James Vaulx, a York County justice and merchant who had died by February 1678.[39] In addition to managing the planting and meeting the demands of his creditors, Vaulx resolved conflicts with several present and former servants.[40] Although William Baker, her indentured servant, ran off to join Nathaniel Bacon, Jr., and his rebel troops in 1676, it was up to Vaulx to see that he received the full terms of the pardon that was issued in 1680. We have already recounted her dealings with Elizabeth Mullins in 1681. That same year, another former servant, William Stroud, stole one of her hogs and was likely to be informed

upon; and her slave Frank and a neighbor's indentured servant brawled with a couple of free men in her parlor and yard.[41] As the head of the household, Vaulx was responsible for dealing with these unruly family members. She might have attempted to overawe her servants through physical correction, but no evidence exists to suggest that she did so. Of course, if her correction was moderate, the servants and slaves would have had little recourse. Instead, for each servant, she chose to enlist the aid of the court. For the most part, this meant that she dealt with their infractions through compromise, and in each case she used the legal forum to reach a reasonable settlement with her laborers. Together, she and the justices worked out various ways to manage the members of her household. Her authority, although fragile, was reinforced by this strategy of supplication.

Still, she was no pushover. In dealing with the infractions of her servants by understanding the law and working with the justices, Vaulx compromised and settled disputes in ways that were advantageous to her. For example, in January 1679, she wrote a note to a York justice asking for a reference or deferral of her cases to the next court. Vaulx was on the docket to stand as a defendant in two suits over her indebtedness, both of which she lost.[42] She "craved" an excuse, she wrote, because she had more pressing business with the "Governor and Councill concerning her servants."[43] The pressing matter—and one wonders at its immediate urgency—concerned her servant, William Baker, who had joined Bacon's troops during the rebellion in 1676. Immediate post-rebellion legislation in 1677 stipulated that such servants were to serve double the time of their absence, the same penalty given to all runaways. When Elisheba Vaulx made her way to the council in January 1679, the colony's officials were anticipating the king's act of pardon for those who had participated in the rebellion.[44] The indemnity was granted, with exceptions, and stipulated that all suits stemming from the rebellion were void unless judgment was obtained before 25 April 1679. Sure enough, on 24 April 1679, William Baker confessed to the York court that he was absent with Bacon for six weeks; and that amount of time was added to his indenture.[45] Elisheba Vaulx may have worn her authority lightly, but at the same time she knew her legal rights and entitlements as a master.

Her authority was more easily contested when servants proved equally knowledgeable of the law. Vaulx found such an adversary in Elizabeth Mullins, the recently freed maidservant who had conceived a pregnancy during her service to Vaulx but delivered after she was re-

leased from her indenture. Just as Vaulx understood that the servant's pregnancy might entitle her to two years of extra service from Mullins, the maidservant understood that the statute governing out-of-wedlock pregnancy only addressed women who delivered infants during their terms of indentures.[46] Both women turned to the York justices to decide the matter. The justices, seemingly attentive to the merits of each woman's approach and mindful of the accuracy of their claims, chose the middle ground. They agreed with Elisheba Vaulx that the maidservant had violated the law but not, as Vaulx argued, because she had become pregnant during her term of service. On this point, the justices relied strictly on the statute on the issue of delivery and sided with Elizabeth Mullins. Since Mullins was unmarried, however, the court fined her five hundred pounds of tobacco, the standard penalty for free women who became pregnant outside of wedlock. Vaulx paid the fine and, in return, Mullins agreed to six months of extra service.[47] In the end, both master and maidservant skillfully negotiated their cases. Vaulx obtained extra service from the maidservant, and Mullins obtained the lesser penalty settled on free women.

With William Stroud, the former servant who in 1681 stole one of her hogs, Elisheba Vaulx negotiated in ways more directly to her advantage. Hog stealing was a serious crime in early Virginia. If convicted, Stroud owed one thousand pounds of tobacco to Vaulx and anyone who informed on him; if he could not pay the fine, he would enter service for two years. Second convictions brought offenders two hours in the pillory with their ears nailed to, and subsequently cut loose from, the wood.[48] But because Vaulx intervened before anyone could inform—indeed intervened *knowing,* according to her note, that her "neighbors threaten to inform"—Stroud owed damages only to her. Whether or not she required the full amount is unclear. Her note to the justices requested the "favour" that they "take notice" that she was the first to inform. Moreover, she made it clear that Stroud had "made satisfaction"; and as a result, apparently no further action was taken.[49] For elite white widows who headed households, such as Elisheba Vaulx, a knowledge of the law was crucial to enlisting the aid of the court. Her petitions and notes to the justices were laced with politeness and entreaties. Thanks to both her knowledge and her delicate narrative strategy, she was able to maintain authority and negotiate conflict with her household dependents.

Vaulx was skilled at managing her dependents to mutual benefit, and she may well have done so because she depended so much upon

them. In 1681, for instance, she sent her slave Frank to confer with two freeholders about some bit of unspecified business. Although the witness who related this story did not note anything unusual in Vaulx's request or Frank's compliance, given subsequent events, one wonders why Vaulx chose Frank for this task. Was it possible that, like her approach to the York court, she avoided personal confrontations? In her negotiations at the York court regarding William Baker, Elizabeth Mullins, and William Stroud, never once did she appear, choosing instead to write a note or be represented through a lawyer. Now, needing to negotiate some business with two free men, she similarly chose to send a slave to represent her.

When Frank arrived to conduct the business with the freeholders, however, they dismissed him out of hand, telling him that "they were not company for Negroes."[50] Vaulx's request that Frank represent her seems doubly curious; surely she had some sense of the freeholders' condescension toward slaves. Was it possible that they were equally haughty toward women who headed households? Were they giving her a hard time—stalling, in effect, in ways that they would have been loath to do had they been dealing with a peer? It seems possible. Vaulx chose to avoid them.

Frank, of course, was deeply angered by his treatment at the hands of the freeholders. We do not know if he spoke of it to Elisheba Vaulx, but he declared openly to other servants that the next time he would fight the men so they would see who was "fit." Predictably, the very next day, the two men in question showed up at Vaulx's household, where they sat drinking her rum all afternoon. Perhaps they were waiting for her; once again, she was not at home to deal with them face to face. Perhaps they were simply proprietary and took from her household what they wanted. With his mistress absent and his enemies in their cups, Frank had his opportunity. Aided by a neighbor's indentured servant, he fell to fighting with one of the men, attempting to shift the balance of power and punish the man for his disdain. Violence allowed Frank to prove that he was fit "company" for free men.[51]

Of course, not every widow had the resources possessed by Elisheba Vaulx. Others had to do without lawyers or a personal acquaintance with the local court when it came to managing conflict in their households. After all, Vaulx had married a justice, felt entitled to visit the governor, and commanded a household of servants and slaves. Other widows found alternative means of commanding authority, and some

had more severe challenges to their authority in the household. The lower their class, the more contested their claims to authority and the fewer their resources in combating those claims.

Mary Butts is a case in point. She was married by 1684 and widowed four years later. Her deceased husband, Anthony Butts, gave her control over a meager estate.[52] She appears to have had no servants but possessed some livestock and land. During her widowhood, Butts leased her land and expected her tenants to help her with the livestock from time to time. One such tenant was James Holloway, who disagreed with her about several matters. Although he felt that Butts should provide him with meals, she thought otherwise. When she asked him to search for a lost cow, he requested that she accompany him. Their disagreements led to open conflict on at least two occasions when each tried to exert authority over the other.

Although Holloway was her tenant, Mary Butts was conscious of her authority as the head of her household and wanted her rules to be followed. Lacking the resources of Elisheba Vaulx, however, meant that Butts relied on commands as well as threats of violence to enforce her dominion. James Holloway, in response, took umbrage at her claim of superiority over him. In July 1690, a married couple, John and Elizabeth Broster, offered depositions about the acrimonious exchanges between the pair. Elizabeth Broster reported that she was visiting Mary Butts one morning at breakfast when James Holloway walked through the door unceremoniously and demanded, "Landlady will you give me some breakfast." Butts was not pleased with his presence or his demand and snapped, "gett you out of my house, I know noe businesse you have here." Her household was sacrosanct, and she would do what was needed to protect it. Holloway, perhaps rankled that she had reprimanded him so harshly in front of a neighbor, replied, "I have as much business here as you have." The widow immediately got up from the table, took up a "Loblolly stick," and followed him out of doors, "biding him to be gone." Even more egregiously, she threatened to strike him with the stick. Perhaps, she reasoned, if her words did not convey her authority, her cooking spoon might do so. In response, Holloway hefted his hoe and seethed, "Landlady if you will not be quiett, by God I will knocke you downe."[53] Their battle of words and the contrasting emblems of their domains—the loblolly stick was a domestic tool, while the hoe was an instrument of fieldwork—reflect the impasse over the boundaries of their authority. It was important to Butts that her tenant follow her orders;

it seemed equally critical to Holloway that she not treat him as a dependent.

The deadlock continued. On another occasion, Holloway contested Butts's power just as she determined to assert it. According to John Broster, Butts had asked Holloway to look for a lost cow. When Holloway returned to the house empty-handed, Butts, in a mood of supplication, "pray[ed]" that he would resume his search. He agreed, but only if she would accompany him. Her mood quickly dissolved into anger. She replied, "if shee must go she would go w[ith]out him, butt shee would make him goe." Once again, finding her commands insufficiently obeyed, she grabbed a corn stake to underscore her words. This time, she did more than threaten. She struck Holloway with the stake and pulled his hair, and the pair fell to the ground fighting.[54]

As a widow, Mary Butts was both empowered and vulnerable. She had authority over her tenant; she was his landlord. Yet Holloway had his own sense of her authority and obligations. He expected provisioning, assistance, and company. She did not intend to provide any of these. Thus, the two wrestled over the terms of her dominion. She asserted herself through commanding speech and physical blows, much like a master would. Yet therein lay the source of their conflict. He was not her servant; he would not be commanded. He was free, although a tenant; and he resented her verbal orders and especially her threats and physical blows.

Moreover, because he was free man, James Holloway could ensure his authority through the legal system. He sued Butts for personal injury, and a jury awarded him a modest 1 50 pounds of tobacco. As Holloway's landlady, Mary Butts had a certain authority over her tenant, and requesting him to perform certain tasks was reasonable enough: in the hierarchy of seventeenth-century Virginia, she was his superior. Her resistance to his offer to search together for the cow and her insistence that he should not come unexpectedly into her house suggest that she may have felt threatened by him in some way, perhaps sexually. When she tried to reinforce her position through the threat of physical violence, however, he not only repelled her blows but took her to court, where a jury concurred that her threats were unreasonable, although their judgment suggests that they did so without enthusiasm. Nevertheless, their decision indicated that landlady or not, widow or not, Mary Butts had neither cause nor right to use violence against a free white man. One wonders what Elisheba Vaulx might have done with such a recalcitrant tenant. Widows such as Mary

Butts, however, possessed few resources beyond their speech and their blows to convince those around them of their authority.

> *If all Virginia Negros had as good a heart as she had they would all be free.*
>
> JANE WEBB,
> free black (1726)

The fictive widows discussed by Norton were mostly high-ranking wives. Each of these fairly well known women—Ann Hibbens, Anne Hutchinson, and Anne Eaton—resisted male authority and was not properly socialized into a formal public that valued consensus among high-status men.[55] In Virginia, similar fictive widows were active in Bacon's Rebellion. For instance, Sarah Grendon, aunt of William Byrd I and object of many of his complaints, was also singled out by Governor Berkeley as the woman who "told hundreds" of his failures and the only woman he refused to pardon after the rebellion was over.[56] Grendon, like Hibbens, Eaton, and Hutchinson, was censured because she ran so far "afoul" of the rules of "gendered power" in the family, the community, and the state.

Yet in the Chesapeake, servants and slaves often objected to the authority of lower-ranking deputy husbands and, in the process, redefined them as fictive widows. Upper-class fictive widows exposed themselves to censure through their conflicts with political, legal, or religious officials. In contrast, middle- and lower-class fictive widows were so defined by the dependents over whom they attempted to exert their authority. In the world of the seventeenth-century Chesapeake, household dependents determined if and when wives transgressed the boundaries of gender and authority that transformed them into fictive widows. Often wives became fictive widows when they headed households in their husband's absence. When servants believed that these women exercised unnatural or unwarranted authority, they responded with violent retaliation. From their point of view, fictive widows were wives who had seriously overstepped their proper sphere of authority.

Servants' assaults on their female masters reflect their intense ambivalence toward female authority. In part, this was because women frequently used sticks or rods rather than their hands to correct their servants. Cases of servant violence toward female masters, for example, often explicitly state that the retaliatory violence occurred "in correction." When Ashaell Batten went to England in 1665, he left his

wife Anne in charge of the household. For some unspecified reason she was beating their indentured servant, Andrew Hill, when he "did take the sticke out of her hand correcting him" and "use other violence toward her." Another servant, Hannah Langley, who was charged with laying "violent hands on" and resisting her mistress, aided him.[57] In another case in February 1678/79, one deponent reported that he watched his mistress, Mrs. Hyde, strike her servant Mary Barrow, when suddenly Barrow "lay hold on her mistriss stick" and returned the blows.[58] Even female bystanders were not free from the assaults of servants. Jane Shurlin deposed in 1682 that Joseph Brookley, servant to Robert Prichard, assaulted her and his master with a tobacco stick as Shurlin held Prichard in her arms in an attempt to defend him from the "wide assaults" of Brookley, who continued to "lay about him as if there was not master or woman in the land."[59] Shurlin's words suggest that Brookley's assaults breached conventions of gender and authority relations. In this case, the servant crossed two boundaries, violating a culturally defined sphere of gender relations and a legally defined arena of authority relations. In contrast, violence by servants against male masters do not mention that it occurred in retaliation for correction. For example, Shurlin's deposition does not indicate that Prichard was correcting his servant. Rather, she noted that Brookley complained about his diet (which she did not find justified). In other instances of violence toward male masters, seizing the correcting stick, which typified violence toward female masters, is mentioned only once; then the servant struck the master's son rather than the master himself.[60]

The use of correcting sticks by female masters was especially inflammatory to servants and, from their point of view, symbolized a fictive widow's breach of gender and authority relations. When women hit their servants, they physically asserted their superiority. Servants struck back as if to disabuse fictive widows of their pretension to power. In contrast, when servants hit their masters, the roots of the outbursts are not recorded; and the actions of offending servants are described in general terms: "resisted and struck" or "did assault, beat and wound."[61] Clerks, of course, may have simply compressed the details, but that they did so is meaningful. Women's use of sticks was notable, a visible symbol of their claim to authority and status as fictive widows, both to the servants on the receiving end and the court clerks who recorded the cases.

Household heads could restore order to their households by taking

unruly servants to court. Husbands such as Ashaell Batten and Robert Hyde, prosecuting in right of their wives under the unity of coverture, sought to protect their authority and their wives. All injured masters could also establish a right to additional time from their laborers. All of the servants prosecuted were punished as stipulated by the 1661/62 act "Against Unruly Servants," but a confession or evidence from a witness was necessary for conviction.[62] The York justices upheld this standard of evidence, and all episodes of servant-master violence that came to their attention had to be supported with either confessions or the depositions of witnesses. For example, when Mary Barrow grabbed Mrs. Hyde's stick and returned her blows, Hyde called to a nearby servant, "Looke heare Flower she strikes me," either to get his help, establish a witness, or both. Clearly, this lower-ranking widow understood standards of evidence and her rights under the law, even if her husband needed to prosecute the suit in her name.

If mistresses with sticks inflamed their servants, from the viewpoint of a neighbor and petty county official, brabbling speech could also transform a wife into a fictive widow. Much like the widow Mary Butts, fictive widows who threatened free men were on slippery ground indeed. In February 1688, William Wade, a constable for York County, visited the house of John Williams about some business.[63] A history of antagonism may have existed between Wade and the Williams. About five years earlier Wade had offered testimony about a lease agreement made by Williams, testimony that may have worked to the disadvantage of the latter.[64] At any rate, in 1688 Wade rode to the Williams's farm and quartered his horses in their tobacco house. Mrs. Williams, apparently unhappy with this situation, declared that she would "turne them out." Other words passed between them until Wade exploded. He beat her with a tobacco stick until it broke, dragged her "a longe time" by her neck kerchief "like to [choke] her," kicked her, and, pulling up her coats, "drew her" through the mud showing her "nakednesse" in a most "shamefull manner." For good measure he called her a "spotted bitch" and concluded that "hee had done her kindnesse in washing her ass itt being the full moone."[65] By threatening Wade's property, Mrs. Williams assumed an authority usually reserved for free men. Wade, clearly a brutal man to begin with, resorted to violence to assert his authority over her and to shame her. He had, however, overstepped his bounds. Her husband successfully prosecuted Wade for assault, and a jury awarded Williams damages of one thousand pounds of tobacco.[66] Still, in Wade's eyes, Mrs.

Williams's brabbling speech transformed her into a fictive widow. For this spoken transgression of authority, she was savagely repaid.

The battles of free black fictive widows and single heads of households were very different from those of their white counterparts. Free black women directed their efforts toward using the local courts to preserve the freedom of their families. The lives of all free blacks became increasingly marginal and precarious as racial slavery expanded in the early eighteenth century. By midcentury, some white Virginians, at any rate, felt that all free blacks should be shipped out of the colony, a clear measure of the hostility directed toward Virginia's small population of free blacks.[67] Free black women who headed households, then, directed their efforts toward keeping themselves and their children out of slavery. Regardless of whether or not they were single heads of households, deputy husbands, or fictive widows, free black women pursued their rights and protections under the law in order to protect their families. Their chances of doing so successfully, however, became increasingly bleak.[68]

Free black Jane Webb of Northampton County was a deputy husband and a fictive widow, and her story illustrates the ways in which race complicated the nature of household authority in early Virginia. Webb was born around 1680, the daughter of a white mother and a black or mulatto father. Because she was the product of an interracial liaison, she was bound over to serve until her eighteenth birthday. Free by 1703, she wanted to marry a slave named Left. To do so, however, she had to bargain with Left's master, Thomas Savage. As the head of the household (even before it was formed), she arranged the marriage and paid the terms demanded by Savage. In exchange for marrying Left, she indentured herself to Savage for seven years; any children born during those seven years would be indentured to him until they reached the age of eighteen. Yet the benefits of this contract did not only accrue to Savage, for Webb potentially gained as well. Left was to be freed when her seven-year indenture ended, and any children born to the couple after that time were not to be bound over to Savage. Jane Webb engineered these bargains, taking on the role of deputy husband out of necessity, not just because Left was enslaved and could not legally enforce the contract, but also in order to secure the eventual freedom of her offspring.[69]

Jane Webb was the only spouse in her family who held rights under the law. For all purposes, she became a fictive widow: it was her job to hold Thomas Savage to their bargain and, in the process, protect her

children and preserve her family. Savage, as it turned out, chose to ignore all of the terms of their agreement. The three children born during Webb's seven-year indenture were kept until they were twenty-one, Left remained enslaved, and Savage attempted to bind over the two children born after Webb's seven-year indenture was over.[70] In response to these violations, Webb pursued her legal rights in court. In 1722, she petitioned the court for the "freedome" of the three children born during her own term of indenture, but the justices dismissed her plea.[71] More egregiously, in June 1726 Thomas Savage went to court and testified to the original agreement between Jane Webb and himself. While he claimed to have lost the legal paper, he had no trouble remembering the terms of the bargain. According to his recollection, that contract had bound over all of Jane and Left's offspring and did not alter Left's enslavement. He produced witnesses, one of whom was Colonel George Harmanson, a Northampton Country magistrate, all of whom swore that they had seen the original indenture and its terms. The justices accepted his account and enforced the terms of the indenture that Savage had specified.[72]

The justices appended an ominous note below their order for Savage. Once again, Justice Harmanson provided a key piece of information against Jane Webb. Apparently she had been making brabbling speeches. He told the court that Webb had uttered "dangerous words, tending to the Breach of the peace," and produced other witnesses to verify his account. At the next court, in July 1726, Webb was "brought to the Barr" where her disorderly speeches were repeated. No doubt frustrated by Savage's success in fracturing her family, she had allegedly declared that "if all Virginia Negros had as good a heart as she had they would all be free." The justices repaid her for this bout of verbal misrule: Jane Webb was immediately given ten lashes "well laid on" her "bare back" at the "common Whipping post."[73] This painful and humiliating punishment did not, however, stop her.

Webb made one last effort to contest the ruling and regain her children. She brought a free black to testify on her behalf; but the justices would not allow evidence from blacks, and in June 1727 her suit was dismissed when she failed to appear.[74] She no longer pursued legal remedies and unwillingly relinquished her children to Savage. Nevertheless, even though her strategies to protect her children initially failed, they seem to have followed her example. For instance, her eldest daughter, Dinah Webb, followed her mother's lead and successfully petitioned the Northampton court for her freedom.[75] In 1750 her

son declared that slaves "would be free" and paid for his words with thirty-nine lashes, perhaps at the whipping post where his mother had been punished for her own brabbling speeches.[76] In her attempts to manage her household, Jane Webb's story illustrates the precarious position of free black fictive widows in colonial Virginia. Her race as well as her determination to protect her family meant that she would undoubtedly run afoul of the structures of authority in the local court.

The experiences of both legal and fictive widows who headed households in early Virginia demonstrate the fragile nature of their authority. In a society increasingly and intensely concerned with establishing and maintaining the authority of planters and masters, actual and fictive widows, because of the ambiguous nature of their status, were compelled to negotiate their dominion carefully or risk violent retaliation. Some women, such as Katherine Thorpe and Elisheba Vaulx, had the resources to broker their authority. Still, Vaulx chose to do so through a third party, never directly presenting her side of disputes to the court or to free men.

Poorer widows and fictive widows were disadvantaged by closer social distance in dealing with their dependents and authorities. The threats presented to Elisheba Vaulx were depredations of her property—a hog, servants with time to serve, a physical fracas that took place on her land. She was protected by her status from actual physical threats to her person. Things were much different for Mary Butts. Her tenant demanded her attention, her victuals, and her assistance. When she asserted her authority through threats, spoons, and sticks, he did not hesitate to retaliate physically. Similarly, wives who attempted to master servants with sticks engaged in face-to-face confrontations about the extent of their authority. The retaliatory violence that they suffered temporarily succeeded in sending a message that they had violated their authority as wives. Finally, free black women such as Jane Webb faced the disabilities of race and gender in attempting to manage their households.

Both widows and fictive widows, then, were forced to negotiate with authorities above them, relative peers, and dependents below them. The strategies that they might employ in doing so were clearly conditioned not simply by the vagaries of temperament but also by the condition of their class. Rich widows were in a better condition to engage in a delicate choreography of notes and petitions and avoid the impropriety of face-to-face confrontations. Poor widows were more

vulnerable to threats from tenants and neighbors and less likely to receive immediate protection. When a neighbor watched Mary Butts and James Holloway brawl, he did nothing to intervene. Servants watched, appalled, as William Wade brutalized Mrs. Williams but did not object or intercede. These unprotesting onlookers may have tacitly agreed that Butts and Williams had violated the gender of their authority. White neighbors appear to have participated as witnesses in a ruse to rob Jane Webb of her children and discredit her. The fragile nature of their authority meant that widows, fictive widows, and deputy husbands often found it expedient as well as safe to treat authorities, neighbors, and dependents as cautiously as possible.

Conclusion: Toward the Eighteenth Century

I seem'd not to Mourn that . . . it was an Offence against God and my Neighbour; but I mourn'd that I was to be punish'd for it.

DANIEL DEFOE,
Moll Flanders (1722)

EIGHTEENTH-CENTURY Virginia planters William Byrd II and Landon Carter often sat as magistrates in their local county courts; but unlike their seventeenth-century counterparts, they seemed to encounter few brabbling women in their courtrooms. Neither man commented extensively on the appearance of women in public spaces such as courtrooms. Much to their irritation, however, both found their households full of disorderly women. Carter, for instance, wrote disdainfully about his slave, Nelly, calling her "Mrs. Impudence" and concluding that she was so bad-tempered that "no husband will keep to her long."[1] For his part, Byrd complained frequently of the tempestuousness of his wife, Lucy Parke Byrd, and their arguments. His slave women ran away and pilfered his goods, and he often had them whipped for their "abundance" of faults.[2] Such turmoil, while clearly apprehended by household dependents, was often—although not always—shielded from public view.[3] As Virginians moved from the seventeenth to the eighteenth centuries, their households continued toward the privatization of domestic life. As a result, the voices of disorderly women in eighteenth-century Virginia are screened more through private documents such as the diaries of Carter and Byrd and less through the court records examined in the pages of this book.

In eighteenth-century Virginia, women were less likely to use brabbling speech to empower themselves or find that such speech was publicly effective. While declining mortality rates and more even ratios of men to women had improved everyday existence for most women, the formal public sphere of politics and courtrooms increasingly marginalized white women, free blacks, and, of course, slaves. Single women

such as Ann Collins, free or indentured, still faced legal punishments for fornication and out-of-wedlock pregnancy; but the courts exhibited less concern for their partners or their words. Slave women such as Mary Aggie found avenues to freedom even more sharply curtailed and more laws to regulate and constrain their movements. Free black women such as Jane Webb met with increasing hostility, marginalized status, and poor ability to protect their offspring. Widows such as Elisheba Vaulx who headed households found their control over property lessened. The voices of women were unlikely to emerge in or matter to public culture until the Revolution, and they had fewer legal avenues to resist their conditions.

If the import of women's brabbling speech diminished in eighteenth-century Virginia, some women found alternative venues for political expression. In 1699, Virginia's burgesses barred women from voting or holding public office; Virginia was the only colony in British North America that did so explicitly.[4] Still, free white women were able to translate their legal liabilities into avenues of agency but not as their seventeenth-century counterparts had done: through brabbling speeches and by raising hoes at authorities. On local levels, however, women, both wittingly and unintentionally, continued to play key roles in local electoral politics and in the formal public. In electioneering, candidates' wives (and their slaves) could and did engage in illicit activities and, by doing so, protected husbands from charges of impropriety.[5] In elections as well, women's property became critical to the enfranchisement of their husbands; and elite women used their property to expressly enfranchise male heirs.[6] Whether or not they intended to do so, women could have an influence on the political fortunes of men. The American Revolution ushered in an era of extensive political activism on the part of free white women: high-ranking women could be significant political actors; unmarried women had influential political voices; and many women engaged in meaningful, if often gendered, political activity such as boycotts and fundraising.[7] These activities did not challenge male dominance or patriarchy but, like the enfranchisement just discussed, aided male efforts.[8] Yet while women were political participants in the Revolution, they did not challenge gender roles in the same ways as their seventeenth-century counterparts, who hefted their hoes at the colony's leaders. The days of that sort of insurgent female political action were gone. But even as women were relegated to increasingly private spheres of influence, they were sometimes able to use

that territory as a basis for political action. An elite "lady's parlour" could be a space for complex political brokering in the early republic, and by the 1830s white women entered politics on the basis of issues deemed to be the province of their sex.[9]

Slavery also subdued the voices of Virginia's brabbling women. The law of slavery had created a rigid hierarchy of subjects; the legal and social fluidity of the seventeenth century gave way to chattel slavery and hardened racism. Free black women faced increasing restriction and what Douglas Deal has described as "fettered freedom." In theory they had legal rights as free persons, but in practice those rights were not given legal protections. The difficulty of staying free made the use of brabbling speech dangerous.[10] For slaves as well, avenues of freedom were severely restricted. By 1691, the burgesses ruled that slaves could not be manumitted unless those who freed them were willing to transport them out of the colony to enjoy their freedom elsewhere. Petitions for freedom were difficult to prove. Courts might demand evidence for those who claimed to have white mothers, and slaves who sought their freedom on other grounds needed powerful allies.[11]

Although a few women managed to penetrate the political and legal hierarchies of eighteenth-century Virginia, their relationships to legal institutions underwent a precipitous decline. Local courts became less inclusive and more rationalized and in the main served the interests of commercially active free men and women. Debt, case actions, and trespass suits mushroomed in the early eighteenth century.[12] As a consequence, like the masculinized public sphere, local courtrooms became less open to women. Disputes over women's disorderly words disappeared from county courts.[13] Justices increasingly restricted women's ability to function as feme soles. Widows' control over property declined; their appointments as executors fell; and the amounts of property they controlled, including, after 1705, slave property, diminished.[14] In oyer and terminer courts, slaves belonging to women stood a 50 percent chance of being sentenced to death when they committed crimes, while those of men faced a 20 percent chance.[15] Justices also barred or compromised the testimony of free black men and women. In practice, they did so long before the passage of a statute in 1732 that expressly prohibited free blacks, Indians, and mulattos from providing evidence in any court except during the trials of slaves. Courts resolved conflicts between husbands and wives in ways that firmly upheld the principles of domestic patriarchy.[16]

The rise of genteel sociability and the emergence of new cultural ideals of femininity also suggest the degree to which categories of womanhood were changing in the eighteenth-century Anglo-American world. For elite Virginia women, for instance, cultural accomplishments were emphasized; and sermon writers as well as pamphleteers popularized ideas about women's superior virtue and piety. White women were to be modest and compassionate and conduct themselves with complacency. Such an emphasis, according to Cynthia A. Kierner, "limited women's autonomy and self-assertion" and, no doubt, discouraged brabbling. While gossip remained an important feature of women's social control in their sphere, public brabbling, especially among women concerned about their rank, violated ideas about hierarchies established to govern relationships based on gender, race, and class. It was inappropriate for women's voices to penetrate political and legal institutions. Women of color, of course, were considered to be sexually unrestrained and physically strong; and both characterizations naturalized their condition as slaves. Their entry into legal and political forums offered a dangerous challenge to authority, and structural barriers made such interventions extraordinarily difficult.

In print as well as in practice, the outspoken, sexually aggressive women who embodied female agency through speech and action and who provoked such powerful cultural anxieties had disappeared. In the eighteenth century, Virginian Robert Munford wrote plays that featured "female patriots" and political discussions. While these women were firmly treading in the male political sphere (the *Virginia Gazette*, for example, contained accounts of politically active women), their participation created no danger. Women might be bawdy, might cross-dress, or might even attempt to vote; but ultimately their disorder made them objects of derision rather than subjects to fear, precisely because they were the antithesis of the emerging cultural ideal of white women's superior virtue and piety. As the diaries of Landon Carter and William Byrd II attest, however, the voices of women, both black and white, proved to be a nettlesome presence in the privatized arenas of parlors and households in eighteenth-century Virginia. There, brabbling women still exercised avenues of resistance. Lucy Byrd privately threatened and protested; and slave women were insolent, ran away, and demanded small privileges and rewards for their labor.[17] Still, the diminution in women's public, political, and legal agency was real.

Yet a few Virginians were privately burdened by substantial fears

about women's power. Both William Byrd II and Thomas Jefferson engaged in sustained misogynistic tirades that were, at bottom, rooted in the fear of women's sexual and financial control over men. Spurred by a failed courtship, Byrd filled his commonplace book with passionate protests about the excesses of women's sexual power. Jefferson's book is replete with references to money troubles and "hateful women."[18] In both cases, the white women who so provoked these prominent Virginians used occasions of courtship and widowhood to wield power over powerful men.[19] Simultaneously, the emergence of a mythology of the slave woman as libidinous, carnal, promiscuous, and dangerous was another harbinger of the prevalent fear that even this supposedly most debased of women could, through her sexual agency, exert control over free men.[20] The nature of women's agency and the sources of their empowerment had evolved by the eighteenth century, just as the weight of their words had a diminished public and political impact. However firmly women were relegated to the private realm, Virginians still harbored nagging doubts about the nature and extent of women's power and their brabbling speeches.

Notes

Introduction

Editorial Method. Throughout the text, I have changed the dates of the Julian calendar used by seventeenth-century Virginians, which marked the new year as March 25. Instead, I have used the modernized Gregorian calendar year, which begins the new year on January 1. I have retained original spelling and punctuation throughout the book, with the exception of contractions and signs. Colonial records often employ various spellings of the proper names of individuals, and for the sake of clarity, I have chosen to regularize them.

1. York County, Virginia, Deeds, Orders, Wills [hereafter cited as YCDOW] 3ff., 149, 169.

2. William Waller Hening, *The Statutes at Large: Being a Collection of All the Laws of Virginia,* vol. 2 (New York, 1823; reprint, Charlottesville, Va., 1969), 166–67.

3. Kathleen M. Brown concurs that the 1662 legislation "affirmed ideals of male authority" and "admitted that many men could not control their wives," while it simultaneously "stigmatized slander with a gender-specific punishment that demeaned and trivialized the political import of women's words." See *Good Wives, Nasty Wenches, and Anxious Patriarchs: Gender, Race, and Power in Colonial Virginia* (Chapel Hill, N.C., 1996), 147–148. Mary Beth Norton also argues that statutes such as the 1662 law served an important social function by identifying misbehaviors and singling them out for community attention. See *Founding Mothers and Fathers: Gendered Power and the Forming of American Society* (New York, 1996), 253.

4. Norton, *Founding Mothers and Fathers,* 253 (quotation), 253–69 (on the social function and sexual nature of gossip); Brown, *Good Wives, Nasty Wenches, and Anxious Patriarchs,* 286. On the gendered patterns of slander in the early Chesapeake, see Mary Beth Norton, "Gender and Defamation in Seventeenth-Century Maryland," *William and Mary Quarterly,* 3d ser., 44 (January 1987): 3–39; Brown, *Good Wives, Nasty Wenches, and Anxious Patriarchs,* 145–49; and Clara Ann Bowler, "Carted Whores and White Shrouded Apologies: Slander in the County Courts of Seventeenth-Century Virginia," *Virginia Magazine of History and Biography* 85 (October 1977): 411–26. For discussions of slander and defamation in other North American colonies, see Norton, *Founding Mothers and Fathers,* 211–17, 232–76; Cornelia Hughes Dayton, *Women Before the Bar: Gender, Law, and Society in Connecticut, 1639–1789* (Chapel Hill, N.C., 1995), 285–328; and Jane Kamensky, *Governing the Tongue: The Politics of Speech in Early New England* (New York, 1997), 71–98.

5. Ibid., 22.

6. Norton, *Founding Mothers and Fathers,* 13–14, 289–92; James Horn, *Adapting to a New World: English Society in the Seventeenth-Century Chesapeake* (Chapel Hill, N.C., 1994), 136–41; Allan Kulikoff, *Tobacco and Slaves: The Development of Southern Cultures in the Chesapeake, 1680–1800* (Chapel Hill, N.C., 1986), 38–44; Russell Menard, "From Servants to Slaves: The Transformation of the Chesapeake Labor System," *Southern Studies* 16 (1977): 355–90; Edmund S. Morgan, *American Slavery, American Freedom: The Ordeal of Colonial Virginia* (New York, 1975), 235–49,

305–15; and the essays collected in Thad W. Tate and David L. Ammerman, eds., *The Chesapeake in the Seventeenth Century: Essays on Anglo-American Society* (Chapel Hill, N.C., 1979).

7. Lois Green Carr and Lorena S. Walsh, "The Planter's Wife: The Experience of White Women in Seventeenth-Century Maryland," *William and Mary Quarterly*, 3d ser., 34 (October 1997): 543 (quotations), 542–71 (inclusive).

8. Norton, *Founding Mothers and Fathers*, 13, 287–92.

9. Morgan, *American Slavery, American Freedom*, 235–92; Brown, *Good Wives, Nasty Wenches, and Anxious Patriarchs*, 137–86; Warren M. Billings, John E. Selby, and Thad W. Tate, *Colonial Virginia: A History* (White Plains, N.Y., 1986), 77–118.

10. Brown, *Good Wives, Nasty Wenches, and Anxious Patriarchs*, 108–36, 247–318.

11. Kamensky demonstrates the importance of considering the cultural practice of speech and the importance of the spoken word in early New England. While the significance of the spoken word in New England differed from that of the Chesapeake, her work is a critical reminder of the power of speech in early America. See *Governing the Tongue*, passim.

12. Oliver P. Chitwood, *Justice in Colonial Virginia* (Baltimore, 1905), 82–84, 97–101. For studies of Virginia law in reception and practice, see David T. Konig, "'Dale's Laws' and the Non-Common Law Origins of Criminal Justice in Virginia," *American Journal of Legal History* 24 (October 1982): 354–75; Peter Charles Hoffer, "Disorder and Deference: The Paradoxes of Criminal Justice in the Colonial Tidewater," in *Ambivalent Legacy: A Legal History of the South*, ed. David J. Bodenhamer and James W. Ely (Jackson, Miss., 1984), 187–201; Rhys Isaac, *The Transformation of Virginia, 1740–1790* (Chapel Hill, N.C., 1982); and A. G. Roeber, *Faithful Magistrates and Republican Lawyers: Creators of Virginia Legal Culture, 1680–1810* (Chapel Hill, N.C., 1981).

13. Dayton coined the phrase "legal fraternity." See *Women Before the Bar*, 5.

14. Ibid., 4.

15. Ibid.

16. Kamensky, *Governing the Tongue*, 11.

17. Jill Lepore's recent meditation on microhistory, which is in part the approach favored in this study, demonstrates that most works of microhistory use the life of an ordinary person as a window into the culture in which they lived. See "Historians Who Love Too Much: Reflections on Microhistory and Biography," *Journal of American History* 88 (June 2001): 129–44. Microhistory owes debts to anthropologists Clifford Geertz and Victor Turner. Geertz's "thick description" has had an enormous influence on history and cultural studies. See *The Interpretation of Cultures: Selected Essays by Clifford Geertz* (New York, 1973), 3–32. Victor Turner's concept of the "social drama" has held large appeal for historians as well. See W. J. T. Mitchell, ed., *On Narrative* (Chicago, 1981), 137–64. Sarah Maza's review of the use of narrative by historians and the influence of anthropological theories in history is enormously instructive. See "Stories in History: Cultural Narratives in Recent Works in European History," *American Historical Review* 101 (December 1996): 1493–1501.

18. The York County records exist nearly continuous from the 1640s. Because the records for the years before 1645 are damaged, this study takes that year as its beginning point.

Thanks to the work of the York County Records Project, Department of Historical Research, Colonial Williamsburg Foundation, all vital data on York's inhabitants have been stripped from extant county records and consolidated into biographical files that the Department graciously makes available to researchers. Funding for the York County Records Project was provided in part by the National Endowment for the Humanities (Grants RS-00033080-1604 and RO-20869-85).

19. York was first designated as Charles River County and acquired its present name in 1642. Hening, *The Statutes at Large,* I, 224, 249. Aside from two small transfers of land in 1769 and 1852, the boundaries of York have remained intact. See John F. Dorman, "A Guide to the Counties of Virginia," *Virginia Genealogist* 25 (Winter 1981): 51.

20. York contained 1,140 tithables at midcentury. The population of York peninsula increased steadily over the course of the seventeenth century, containing 10 percent of Virginia's population in 1634 and 26 percent in 1699; the region grew from an estimated population of 510 to slightly more than 15,000. See Morgan, *American Slavery, American Freedom,* tab. 3, 412–13; tab. 4, 414.

21. Ibid., 407.

22. Kulikoff, *Tobacco and Slaves,* 41. For eighteenth-century statistics, see Philip D. Morgan, *Slave Counterpoint: Black Culture in the Eighteenth-Century Chesapeake and Lowcountry* (Chapel Hill, N.C., 1998), map 3, 98.

23. Morgan, *American Slavery, American Freedom,* tab. 3, 412–13.

24. While the York County caseload is full of cases that reflect women's debt litigation, their roles as deputy attorneys for their husbands, or their disputes over inheritance, these cases are not the most useful ones for analyzing women's narrative and legal strategies in times of crisis. In part, this is because the actual formula adopted by Virginia's clerks for most civil litigation was remarkably routine from the start and became increasingly so over the course of the colonial period. For an analysis of the activities of Virginia's propertied women and their strategies in civil litigation, see Linda L. Sturtz, *Within Her Power: Propertied Women in Colonial Virginia* (New York, 2002).

25. Joy Wiltenburg, *Disorderly Women and Female Power in the Street Literature of Early Modern England and Germany* (Chapel Hill, N.C., 1992), 7–25. Representations of Virginia's disorderly women were part of a broader, more general indictment of the social origins of all colonials ongoing throughout the colonial period. All manner of print culture reflected poorly on immigrant and native-born Anglo-Americans. By the eighteenth century, the emergent southern gentry, probably more than any other group, suffered the weight of these negative assessments. According to Michael J. Rozbicki, planters felt their provincialism so keenly that it became critical to the formation of their identities as elites. See "The Curse of Provincialism: Negative Perceptions of Colonial American Plantation Gentry," *Journal of Southern History* 42 (November 1997): 727–29. Carole Shammas also makes this point. See "English-Born and Creole Elites in Turn-of-the-Century Virginia," in *The Chesapeake in the Seventeenth Century: Essays on Anglo-American Society,* ed. Thad Tate and David Ammerman (Chapel Hill, N.C., 1979), 276–77.

26. "A Net for a Night-Raven; Or, A Trap for a Scold," to the tune, "Let us to Virginny go" (London: Printed for F. Coles, T. Vere, and Ju. Wright, [n.d., 1600s]), in C. H. Firth, ed., *An American Garland, Being a Collection of Ballads Relating to America, 1563–1759* (Oxford, 1915), 59.

27. "A Total Rout, Or a Brief Discovery of a Pack of Knaves and Drabs, Intituled Pimps, Panders, Hectors, Trapans, Nappers, Mobs, and Spanners: The Description of the Qualities is Here Set Down in Brief" (1653), in The Percy Society, *Early English Poetry, Ballads, and Popular Literature of the Middle Ages* (London, 1841), 3:133.

28. I rely on Montague Summers, ed., *The Works of Aphra Behn* (London, 1915; reprint, New York, 1967), 4:215–310. Behn's version of Bacon's Rebellion and its leader bears little likeness to other accounts and was probably based on news sheets, official reports, and gossip circulating in London. See Shammas, "English-Born and Creole Elites, 276–77. We cannot determine precisely when Behn wrote *The Widow Ranter,* but it was certainly after 1677 and probably around 1687. The play was produced posthumously in 1690 at the Theater Royal, Drury Lane. See Summers, ed.,

Works of Aphra Behn, 4:219; and Janet Todd, *The Secret Life of Aphra Behn* (New Brunswick, N.J., 1997), 412–17.

29. I use Daniel Defoe, *Moll Flanders: An Authoritative Text, Backgrounds, and Sources Criticism,* ed. Edward Kelly (New York, 1973).

30. Widows in early America were understood to inhabit both male and female roles. According to Karin Wulf, widows were to be simultaneously masculine "(economic, independent, political)" and feminine "(dependent, domestic)" subjects. See *Not All Wives: Women of Colonial Philadelphia* (Ithaca, N.Y., 2000), 5. Norton makes a similar point in analyzing the ambiguous position of widows and fictive widows in early America. See *Founding Mothers and Fathers,* 138–40.

31. Todd argues that by the late Restoration ranters were forgotten, and the term referred to a "roistering man or a whorish woman." Todd coins the phrase "roistering woman" to describe the Widow Ranter, a phrase that I find most accurate. See *Secret Life of Aphra Behn,* 416 (quotation), 411–23 (discussion of *The Widow Ranter*). On ranter sectarians, see Christopher Hill, *The World Turned Upside Down: Radical Ideas During the English Revolution* (New York, 1975), 203.

32. Annette Kreis-Schinck, *Women, Writing, and the Theater in the Early Modern Period: The Plays of Aphra Behn and Suzanne Centilivre* (London, 2001), 121.

33. Lennard J. Davis, "Wicked Actions and Feigned Words: Criminals, Criminality, and the Early English Novel," *Yale French Studies* 59 (June 1980): 106–18. The literature on *Moll Flanders* is voluminous. Useful to this study have been Paula R. Backscheider, *Moll Flanders: The Making of a Criminal* Mind (Boston, 1990); *Daniel Defoe: His Life* (Baltimore, 1989); and Lois Chaber, "Matriarchal Mirror: Women and Capital in *Moll Flanders,*" *Publications of the Modern Language Association* 97 (March 1982): 212–26.

34. Aphra Behn, "The Widow Ranter," in Summers, ed., *Works of Aphra Behn,* 241.

35. Daniel Defoe, *Roxanna* (New York, 1987), 187. See also Davis, "Wicked Actions," 111–12. Defoe seems to have been specifically concerned with the plight of criminals and wrote extensively about the forces that pushed them into crime; the potential for their rehabilitation through transportation to Virginia; and the reasons that those, like Moll Flanders, who had been regenerated but were prohibited by law from returning to England ought to be able to do so. See, for instance, "Moll of Rag Fair," *Applebee's Original Weekly Reader,* 16 July 1720.

36. Chaber, "Matriarchal Mirror, 222.

37. The meaning of cross-dressing in early modern and modern literatures is discussed at more length in chapter 3. Cross-dressing for Moll Flanders was in part a means of avoiding detection after she had become a well-known thief. She bragged that when she dressed as a man her thieving male partner never knew that she was a woman, even though they spent many days and several entire nights together (168). Still, she admitted that she found male garb to be "contrary to Nature" and that it was some time before she could "behave" in her new clothes (167).

38. Todd, *Secret Life of Aphra Behn,* 411–23; Angeline Goreau, *Reconstructing Aphra: A Social Biography of Aphra Behn* (Oxford, 1980), 48; Margaret W. Ferguson, "Juggling the Categories of Race, Class, and Gender: Aphra Behn's *Oroonoko,*" in *Women, "Race," and Writing in the Early Modern Period,* ed. Margo Hendricks and Patricia Parker (New York, 1994), 213–14; and Mary Ann O'Donnell, "Tory Wit and Unconventional Woman," in *Women Writers of the Seventeenth-Century,* ed. Katharine M. Wilson and Frank J. Warnke (Athens, Ga., 1989), 341–54.

39. Behn, "The Widow Ranter," 292.

40. Todd argues that Cockacoeske, the queen of the Pamunkey, whose tribe suffered extensively at Bacon's hands, was a likely basis for Sermernia. See *Secret Life of*

Aphra Behn, 413–14; and Martha W. McCartney, "Cockacoeske, Queen of Pamunkey: Diplomat and Suzeraine," in *Powhatan's Mantle: Indians in the Colonial Southeast*, ed. Peter H. Wood, Gregory A. Waselkov, and M. Thomas Hatley (Lincoln, Nebr., 1989), 177–78.

41. Behn, "The Widow Ranter," 249. This is typical of sentimental narratives of colonial English and Native American encounters wherein the corruption of the former destroys the romance. See Ferguson, "Civility, Barbarism, and the Widow Ranter," 236; Hulme, *Colonial Encounters*, 228–29; and Todd, *Secret Life of Aphra Behn*, 413.

42. Defoe, *Moll Flanders*, 259, 266, 257, 268.

43. Hening, *Statutes at Large*, 2:385.

44. Marylynn Salmon, *Women and the Law of Property in Early America* (Chapel Hill, N.C., 1986), 14–18.

Chapter 1. Women, Misrule, and Political Culture

1. Treatments of Lady Frances Berkeley can be found in *American National Biography*, ed. John A. Garraty and Mark C. Carnes (New York, 1999), 2:648–49; *Dictionary of Virginia Biography*, ed. John T. Kneebone, *et al.* (Richmond, Va., 1998), 1:450–51; *Notable American Women 1607–1950*, ed. Edward T. James, *et al.* (Cambridge, 1971), I, 135–36; and Suzanne Lebsock, *"A Share of Honour": Virginia Women, 1600–1945* (Richmond, Va., 1984), 26. For studies that give particular attention to the dynamics of gender and Bacon's Rebellion, see Kathleen M. Brown, *Good Wives, Nasty Wenches, and Anxious Patriarchs: Gender, Race, and Power in Colonial Virginia* (Chapel Hill, N.C., 1996), 137–86; Steven Saunders Webb, *1676: The End of American Independence* (New York, 1994), 5–6, 20–21; Susan Westbury, "Women in Bacon's Rebellion," in *Southern Women: Histories and Identities*, ed. Virginia Bernhard, Betty Brandon, Elizabeth Fox-Genovese, and Theda Perdue (Columbia, Mo., 1992), 30–46; and Julia Cherry Spruill, *Women's Life and Work in the Southern Colonies* (Chapel Hill, N.C., 1938; reprint, New York, 1972), 232–36.

2. Virginia Ferrar to Lady Berkeley, 10 August 1650, Ferrar Papers, Box VII, No. 692. A transcription of this letter can be found in the Virginia Colonial Records Project, Survey Report 6646, Reel 573.

3. Council of Virginia to the Lords of Trade and Plantation, 31 May 1676, Coventry Papers of the Marquess of Bath at Longleat House, microfilm, Library of Congress [hereafter cited as Coventry Papers], vol. 77 ff. 95–96.

4. Sir William Berkeley to Francis Moryson, 21 February 1677, Coventry Papers, vol. 77, f. 426.

5. Governor William Berkeley to Secretary Lord Arlington, 23 June 1671, in W. Noel Sainsbury, ed., *Calendar of State Papers, Colonial Series, American and the West Indies, 1669–1674* (London, 1889; reprint, New York, 1964), 7:234; Virginia M. Meyer and John Frederick Dorman, *Adventurers of Purse and Person, Virginia 1607–1624/5*, 3d ed. (Richmond, Va., 1987), 525.

6. Warren M. Billings, John E. Selby, and Thad W. Tate, *Colonial Virginia: A History* (White Plains, N.Y., 1986), 104–8.

7. Frances Culpeper Stephens married William Berkeley in 1670; Alexander Culpeper was commissioned as surveyor-general of Virginia on 25 October 1671. When Governor Berkeley requested the appointment for Culpeper, he noted that it was for "his wife's brother." See Sainsbury, *Calendar of State Papers*, 7:220, item 540.

8. "Cole Family," *William and Mary Quarterly*, 1st ser., 5 (January 1897): 177.

9. Edmund S. Morgan, *American Slavery, American Freedom: The Ordeal of Colonial Virginia* (New York, 1975), 275. Lady Frances Berkeley and Philip Ludwell became leaders in the "Green Spring" faction, a group that wished to continue Berke-

ley's style of government. See "Ludwell Family," *William and Mary Quarterly*, 1st ser., 19 (January 1911): 210–11. Ludwell eventually became governor of both North and South Carolina. Before they left Virginia, however, Lady Berkeley and Philip Ludwell had a special pew made for them in the new brick Bruton Parish Church, built in 1683, as a measure of their stature within Virginia politics and society. See Lyon G. Tyler, "Bruton Church," *William and Mary Quarterly*, 1st ser., 3 (January 1895): 172.

10. Herbert Jeffreys to Henry Coventry, 4 July 1678, Coventry Papers, vol. 78, ff. 268–70.

11. Mary Beth Norton, *Founding Mothers and Fathers: Gendered Power and the Formation of American Society* (New York, 1996), 76.

12. William Byrd I to Warham Horsmanden, 26 February 1684, in Marion Tinling, ed., *The Correspondence of the Three William Byrds of Westover, Virginia, 1684–1776* (Charlottesville, Va., 1977), 1:12–13.

13. William Byrd I to Warham Horsmanden, 20 May 1684, in Tinling, ed., *Correspondence*, 1:17; and William Byrd I to Nordest Rand, 21 May 1684, ibid., 22.

14. Sir William Berkeley to [T. Ludwell], 1 July 1676, Coventry Papers vol. 77, f. 144.

15. On the causes of Bacon's Rebellion, see Morgan, *American Slavery, American Freedom*, 215–49; Warren M. Billings, "The Causes of Bacon's Rebellion: Some Suggestions," *Virginia Magazine of History and Biography* 77 (October 1970): 409–35; Brown, *Good Wives, Nasty Wenches, and Anxious Patriarchs*, 137–59; Webb, *1676*, 3–131; and Peter Linebaugh and Marcus Rediker, *The Many Headed Hydra: Sailors, Slaves, Commoners, and the Hidden History of the Revolutionary Atlantic* (Boston, 2000), 135–39.

16. For accounts and interpretations of the rebellion, see Morgan, *American Slavery, American Freedom*, 235–92; Brown, *Good Wives, Nasty Wenches, and Anxious Patriarchs*, 137–86; and Webb, *1676*, 3–131. Other classic studies include Francis Jennings, *The Ambiguous Iroquois Empire* (New York, 1984); Wilcomb E. Washburn, *The Governor and the Rebel: A History of Bacon's Rebellion in Virginia* (Chapel Hill, N.C., 1954); and Thomas J. Wertenbaker, *Torchbearer of the Revolution: The Story of Bacon's Rebellion and Its Leader* (Princeton, N.J., 1940).

17. For the progress and conclusion of the rebellion, see the works cited in note 16.

18. "Complaint from Heaven with a Huy and crye and a petition out of Virginia and Maryland," in *Archives of Maryland: Proceedings of the Council of Maryland, 1667–1687/8*, ed. William Hand Browne (Baltimore, 1887) 5:134. The editor notes that this petition was the "grotesque tirade of some illiterate fanatic" but was "undoubtedly" presented to the Privy Council, *Ibid.*, vii. In a compilation of the events, sources, accounts, and analyses of Bacon's Rebellion, historian Jane Carson lists "The Complaint" under "Verdicts: Fiction" rather than under "Testimony: The Sources." She does so because the "scurrilous author" of the petition blamed Lady Frances Berkeley for the rebellion, a judgment that Carson found fictional rather than factual. See *Bacon's Rebellion, 1676–1976* (Jamestown, Va., 1976), 62.

19. "Complaint from Heaven," 134. The reference to the governor's greed for "Indians presents" reflects dissatisfaction with Berkeley's policies regarding trade with and protection of Native Americans. No colonist could trade with the Native Americans unless issued a license by Berkeley.

20. Wertenbaker, *Torchbearer*, 204–5.

21. Lady Frances Berkeley to Francis Moryson, 25 March 1677, Colonial Office, Public Record Office [hereafter cited as C.O.] 5/1371, ff. 180–81. These materials contain at least two sets of unmatched page numbers, one cursive and one stamped. For consistency, I rely on the former throughout these citations.

22. Francis Moryson to [Thomas, Lord Culpepper?] May, 1680, C.O. 1/45, f. 330.

23. Bernard Capp argues that most early modern English women chose the path of "accommodation," softening and circumventing male authority without challenging it outright. Clearly, Lady Berkeley, as an anomaly, defied this convention. See "Separate Domains? Women and Authority in Early Modern England," in *The Experience of Authority in Early Modern England,* ed. Paul Griffiths, Adam Fox, and Steve Hindle (New York, 1996), 125 (quotation), 125–30.

24. Morgan, *American Slavery,* 255.

25. Nathaniel Bacon, Jr., to Sir William Berkeley, 25 May 1676, Coventry Papers vol. 77, f. 89.

26. Morgan, *American Slavery,* 255–69.

27. Emphasis mine. Lady France Berkeley to [unknown], [n.d.], Coventry Papers, vol. 77, f. 41.

28. Norton argues that the insults of most concern to men were those that challenged a man's financial or political integrity; most defamation suits with male defamers and male targets were concerned with those matters. When men sued women for defamation, it was largely over sexual slanders. See *Founding Mothers and Fathers,* 211–17, 260. Cornelia Hughes Dayton also demonstrates that accusations of penury were a significant reason for men to file defamation suits in seventeenth- and eighteenth-century New Haven colony. See *Women Before the Bar: Gender, Law, and Society in Connecticut, 1639–1789* (Chapel Hill, N.C., 1995), 293–300, 303–8.

29. Lady Frances Berkeley to [unknown], [n.d.], Coventry Papers, vol. 77, f. 41.

30. Nathaniel Bacon, Jr., to Sir William Berkeley, 25 May 1676, Coventry Papers, vol. 77, f. 89.

31. Brown, *Good Wives, Nasty Wenches, Anxious Patriarchs,* 160; Webb, *1676,* 27.

32. The "prominent planters" were Nathaniel Bacon, Sr., the rebel's uncle, and William Byrd I. See Lady Frances Berkeley to [unknown], 21 October 1676, Coventry Papers, vol. 77, f. 41.

33. For the "Act of indemnitie and free pardon," see William Waller Hening, *The Statutes at Large: Being a Collection of All the Laws of Virginia* (New York, 1823; reprint, Charlottesville, VA 1969), 2:366–73; for the "Act for the releife of such loyall persons as have suffered losse by the late rebells," see Hening, *Statutes* 2:381–386. For discussions of the commissioners' relations with the Berkeleys, see Morgan, *American Slavery,* 271–82; Webb, *1676,* 132–63; and Washburn, The *Governor and the Rebel,* 92–113.

34. Commissioners to Secretary Watkins, 4 May 1677, C.O. 5/1371, ff. 224–25.

35. Commissioners to William Berkeley, 23 April 1677, C.O. 5/1371, ff. 212–13; Sainsbury, *Calendar,* 10:78.

36. Commissioners to William Berkeley, 23 April 1677, C.O. 5/1371, ff. 212–13.

37. Commissioners to Secretary Watkins, 4 May 1677, C.O. 5/1371. f 220; Sainsbury, *Calendar,* 10:78 (quotation), 64–65 (other details).

38. Lady Frances Berkeley to Col. Francis Moryson, 25 April 1677, C.O. 5/1371, f. 217; Lady Berkeley's missive is appended to her husband's letter, ff. 216–17.

39. The Berkeleys' letters to the commissioners are as follows: Sir William Berkeley to the Commissioners, 23 April 1677, C.O. 5/1371, ff. 214–215; Governor William Berkeley and Lady Frances Berkeley to Francis Moryson, 25 April 1677, C.O. 5/1371, ff. 216–17.

40. Robert Dabney Minor to Mittie Carter, 1 September 1861, Minor Family Papers, Virginia Historical Society.

41. Council of Virginia to the Lords of Trade and Plantations, 31 May 1676, Coventry Papers, vol. 77, f. 95.

42. Nicholas Stephens to Sir Henry Coventry, 6 August 1676, Coventry Papers, vol. 77, f. 170.

43. John Berry, Francis Moryson, and Herbert Jeffreys, "A True Narrative of the Rise, Progresse and Cessation of the late Rebellion in Virginia By His Majestey's Commissioners," C.O. 5/1371, f. 191.

44. Philip Ludwell to Secretary Coventry, before July 1677, Board of Trade Papers Relating to Bacon's Rebellion, ff. 68–72, Brock Collection, 766, Huntington Library.

45. Ibid., ff. 69–70.

46. Nicholas Spencer to Secretary Coventry, 6 August 1676, Coventry Papers, vol. 77, f. 170.

47. [Unknown], "The History of Bacon's and Ingram's Rebellion," in *Narratives of the Insurrections, 1675–1690*, ed. Charles Andrews (New York, 1915), 78.

48. [Thomas Mathew], "The Beginning, Progress, and Conclusion of Bacon's Rebellion in the Years 1675 and 1676," [1705] in *Narratives of the Insurrections*, 40–41.

49. [unknown], "The History of Bacon's and Ingram's Rebellion," 96.

50. Ibid., 80.

51. Philip Ludwell to Secretary Coventry, before July 1677, Board of Trade Papers Relating to Bacon's Rebellion, f. 71, Brock Collection, 766, Huntington Library.

52. Emphasis mine. Sir William Berkeley to [T. Ludwell], 1 July 1676, Coventry Papers, vol. 77, f. 144.

53. Elizabeth Duke Bacon to her sister, 29 June 1676, reprinted in *William and Mary Quarterly* 1st ser., 9 (July 1900): 4–5; and in *Virginia Magazine of History and Biography* 5 (October 1897): 219–20.

54. William Drummond was one of Bacon's chief lieutenants during the rebellion and was hanged for treason. See Washburn, *Governor and Rebel*, 80, 90, 148; for the quotation, see Herbert R. Paschal, ed., "George Bancroft's 'Lost Notes' on the General Court Records of Virginia," *Virginia Magazine of History and Biography* 91 (July 1983): 355, n. 30.

55. Paschal, "George Bancroft's 'Lost Notes,'" 356. Bancroft's notes were taken during a research trip to Virginia in 1836. Since all but two volumes of Virginia's seventeenth-century Council and General Court records were destroyed in the state building when it was burned in April 1865, Bancroft's notes are especially useful. His most extensive notes cover Bacon's Rebellion and include direct quotations, which I have used here. Many of these materials were used in his *History of the United States*, vol. 1 (Boston, 1882). See Paschal's preface to the reprinted notes, 348–50.

The remarks about Sarah Drummond and her role in the rebellion come in the context of a suit of trespass she filed against Lady Frances Berkeley, Governor Berkeley's widow, for seizing Mrs. Drummond's property. Hening reports that the trial focused on the actions of William and Sarah Drummond during the rebellion and "discloses many curious facts in relation to those times." He did not transcribe the case, however, so Bancroft's notes are the provide the best account. See Hening, *Statutes*, 2:558.

56. Paschal, "George Bancroft's 'Lost Notes,'" 355–58.

57. Lydia Chisman's stepfather, Thomas Bushrod, expressed a desire to meet with Quakers; and depositions reported that he said his wife, Elizabeth Bushrod, was usually at Quaker meetings. See York County Deeds, Orders, Wills, 3, 1657–62. He refused to have the Book of Common Prayer read at his funeral.

58. [Unknown], "The History of Bacon's and Ingram's Rebellion," 81–82.

59. An Act of Indemnity and Free Pardon, 20 February 1676/77, stated that Sarah Grendon and Edward Phelps were exempted from the pardon and were liable to "suffer and pay such paines, penalties and forfeitures, not extending to life, as by the next grand assembly, or upon a legall tryall before the right honourable the governour and councell shalbe thought fitt and convenient. See Hening, *Statutes*, 2:371. For her apology, see "The Humble Petition of Sarah Grendon, Wife of Thomas Grendon," March 1676, Coventry Papers, vol. 77, f. 6.

The royal commissioners sent by Charles II to investigate the rebellion tried Sarah Grendon on 10 May 1677 at Charles City County Court. (This was at the request of her husband, Thomas, since Governor Berkeley had refused her trial before the court of oyer and terminer.) The commissioners ordered that she should have the benefit of the pardon and not be further prosecuted. See "Grievance of Thomas Grendon Sworn Before the Commissioners," C.O. 5/1371, f. 339–41; also abstracted in John Davenport Neville, *Bacon's Rebellion* (Jamestown, Va., n.d.), 369–70.

60. See, for example, the suits against Elizabeth Regan and Mary Skinner of Surry County; Regan received ten lashes on her bare back, and Skinner received twenty of the same; Surry County Orders, parts 1 and 2, 1671–91, f, 133, and ff. 154–55, respectively. Skinner's husband John was one of forty Surry men who laid hold of the king's pardon on 20 February 1677. These men were small landowners or freemen who worked for others. See John B. Boddie, *Colonial Surry* (Baltimore, 1959), 136–37.

61. Wilcomb E. Washburn points out, however, that since Drummond's descendents retained possession of the Drummond plantation, we can assume that she or her descendents won the case. See "The Humble Petition of Sarah Drummond," *William and Mary Quarterly,* 3d ser., 13 (July 1956): 354–55.

62. Lady Berkeley left for London to present to the Crown a petition for aid in the form of troops; her journey was successful. See Council of Virginia to the Lords of Trade and Plantations, 31 May 1676, Coventry Papers, vol. 77, f. 95.

63. Philip Ludwell to Secretary Coventry, before July 1677, Board of Trade Papers Relating to Bacon's Rebellion, f. 71, Brock Collection, 766, Huntington Library.

64. Petition of Alexander Walker, James City County, March 1676, Coventry Papers, vol. 78, f. 3; petition of Sarah Drummond, C.O. 1/41, f. 117.

65. Berry, Moryson, and Jeffreys, "A True Narrative of the Rise, Progress, and Cessation of the Late Rebellion," C.O. 5/1371, f. 393.

66. [Mathew], "The Beginning, Progress, and Conclusion of Bacon's Rebellion," 27.

67. The primary source description of women in "white aprons" is from [unknown], "The History of Bacon's and Ingram's Rebellion," 69. The description of the women is as follows: "That Bacon knit more knotts by his owne head in one day, then all the hands in [James]Towne was able to untye in a wholl weeke: While these Ladyes white Aprons became of grater force to keepe the besieged from salleing out then his works (a pittifull trench) had strength to repell the weakest shot, that should have bin sent into his Legure, had he not made use of this invention."

68. Berry, Moryson, and Jeffreys, "A True Narrative of the Rise, Progresse and Cessation of the late Rebellion," f. 400.

69. [unknown], *The History of Bacon's and Ingram's Rebellion,* 69–70.

70. The female chronicler of the rebellion named the white aprons individually: "Coll. Bacon's Lady, Madm. Bray, Madm. Page, Madm. Ballard." See [Ann Cotton], "An Account of Our Late Troubles in Virginia," [1676], in *Tracts and Other Papers Relating Principally to the Origin, Settlement, and Progress of the Colonies in North America, From the Discovery of the Country to the Year 1776,* ed. Peter Force (Washington, D.C., 1844; reprint, Gloucester, Mass., 1963), vol. 1, no. 9, p. 8. Force published the account that originally appeared in the Richmond *Enquirer* on 12 September, 1804. It is signed by "Mrs. An. Cotton" and appended to it is a letter from "Mr. Cotton."

For other discussions of Ann and John Cotton, see Moses Coit Tyler, *A History of American Literature during the Colonial Period, 1607–1765* (New York, 1962), 86–95, esp. n. 35; Jay B. Hubbell, "John and Ann Cotton, of 'Queen's Creek,' Virginia," *American Literature* 10 (May 1938): 179–201; Francis Burton Harrison, "Footnotes Upon Some XVII Century Virginians," *Virginia Magazine of History and Biography*

50 (October 1942): 287–99; C. E. Schorer, "'One Cotton, of Acquia Creek, Husband of Ann Cotton,'" *American Literature* 22 (November 1950): 342–45; and Howard Mumford Jones, *The Literature of Virginia in the Seventeenth Century*, 2d ed. (Charlottesville, Va., 1968), 101–22.

71. Hening, *Statutes*, 2:166–167.

72. Morgan, *American Slavery, American Freedom*, 274; Billings, Selby, and Tate, *Colonial Virginia*, 97–100.

73. Hening, *Statutes*, 2:385. Elizabeth Regan of Surry County (see n. 60) was married and received punishment consistent with this statute, enacted 20 February 1677, even though she was sentenced on 17 February.

74. Hening, *Statutes*, 2:458–64.

75. Ibid., 464.

76. Secretary Nicholas Spencer to Sir Leoline Jenkins, 12 August 1682, C.O. 1/49, f. 106. See also J. W. Fortescue, *Calendar of State Papers, Colonial Series, 1681–1685* (London, 1898; reprint, New York, 1964), 237–38, 275.

77. Secretary Nicholas Spencer to Sir Leoline Jenkins, 28 May 1682, C.O. 1/48, ff. 263–64.

78. Ibid., 238. It is interesting to note that in this letter Spencer distinguishes "the rabble" from "the women." I have unsuccessfully attempted to discover whether or not others make this distinction and can only ascertain that even Secretary Spencer does not consistently discriminate between the two terms. It is possible that he refers to the wives of planters or to widows who owned land and somehow separates them from servant or slave women who might have participated in the initial riots and therefore had been classified as part of the "rabble."

79. Billings, Selby, and Tate, *Colonial Virginia*, 106.

80. Ibid., 107.

81. John Hammond, "Leah and Rachel, or the Two Fruitfull Sisters of Virginia and Maryland; Their Present Condition Impartially Stated and Related," in *Tracts*, ed. Force, 12.

82. Allan Kulikoff, *Tobacco and Slaves: The Development of Southern Cultures in the Chesapeake, 1680–1800* (Chapel Hill, N.C., 1986), 41.

83. Actual numbers of slave or free black men and women in seventeenth-century Virginia are difficult to know. Kulikoff points out, however, that by the early eighteenth century, slave ships imported two men for every one woman. See ibid., 321. Lorena Walsh finds that same ratio of male to female slaves on the Bacon-Burwell estate. See *From Calabar to Carter's Grove: The History of a Virginia Slave Community* (Charlottesville, Va., 1997), 29–30.

84. H. R. McIlwaine, ed., *Executive Journals of the Council of Colonial Virginia* (Richmond, Va., 1923), 1:23–24.

85. Ibid., 1:36. The men were tried after the proclamation of 12 August 1682, which stipulated that any further engagement in plant cutting was reckoned as treason and that persons who engaged in these activities were to be prosecuted as rebels against the Crown. See ibid., 33–34.

86. Disorder and riots occurred between 1660 and 1683. See T. H. Breen, "A Changing Labor Force and Race Relations in Virginia, 1660–1710," in *Puritans and Adventurers: Change and Persistence in Early America* (New York, 1980), 128; for an overview of concerted action of seventeenth-century laborers in Virginia see 128–47; Richard B. Morris, *Government and Labor in Early America* (New York, 1946), 169–77; and J. Douglas Deal, *Race and Class in Colonial Virginia: Indians, Englishmen, and Africans on the Eastern Shore During the Seventeenth Century* (New York, 1993), 115–28.

87. On the persistence of English radical and sectarian activity in early America,

see Peter Linebaugh, "All the Atlantic Mountains Shook," 193–219, and Marcus Rediker, "Good Hands, Stout Heart and Fast Feet: The History and Culture of Working People in America," 221–49, both in *Reviving the English Revolution: Reflections and Elaborations on the Work of Christopher Hill,* ed. Geoff Eley and William Hunt (London, 1988). The motives and actions of agricultural, sectarian, and radical insurgents in England from the beginning of the seventeenth century through the Restoration are discussed in a variety of works. Those most useful in positioning this discussion include Christopher Hill, *The World Turned Upside Down: Radical Ideas During the English Revolution* (London, 1972); David Underdown, *Revel, Riot, and Rebellion: Popular Politics and Culture in England, 1603–1660* (Oxford, 1985); John Walter and Keith Wrightson, "Dearth and the Social Order in Early Modern England," *Past and Present* 71 (May 1976): 22–42; and the essays collected in John Brewer and John Styles, eds., *An Ungovernable People: The English and Their Law in the Seventeenth and Eighteenth Centuries* (New Brunswick, N.J., 1980), and Anthony Fletcher and John Stevenson, eds., *Order and Disorder in Early Modern England* (Cambridge, 1985).

88. For women's participation in the grain riots, see Walter and Wrightson, "Dearth and the Social Order," 22–42; and Patricia Higgins, "The Reactions of Women," in *Politics, Religion and the English Civil War,* ed. Brian Manning (New York, 1973), 181–82. For discussions of female petitioners, see 183–209. Also see Ellen A. McArthur, "Women Petitioners and the Long Parliament," *English Historical Review* 29 (October 1909): 698–709. On Quakers and religious sectarians, see K. V. Thomas, "Women and the Civil War Sects," *Past and Present* 13 (April 1958): 42–62; and Phyllis Mack, *Visionary Women: Ecstatic Prophecy in Seventeenth-Century England* (Berkeley, Calif., 1992). More general treatments of women's changing status in seventeenth-century England include D. E. Underdown, "The Taming of the Scold: The Enforcement of Patriarchal Authority in Early Modern England," 116–36, and Susan Dyer Amussen, "Gender, Family and the Social Order, 1560–1725," 196–217, both in *Order and Disorder,* ed. Fletcher and Stevenson; Natalie Zemon Davis, "Women on Top," in *Society and Culture in Early Modern France* (Stanford, 1975, 124–51; and Laurel Thatcher Ulrich, *Good Wives: Image and Reality in the Lives of Women in Northern New England, 1650–1750* (New York, 1983), 193–94.

89. Louis B. Wright and Marion Tinling, eds., *The Secret Diary of William Byrd of Westover, 1709–1712* (Richmond, Va., 1941), 113 (Jenny); 198, 205, 206 (runaway); 337–38 (Nurse, Anaka, and Prue break into the cellar).

90. Philip D. Morgan, *Slave Counterpoint: Black Culture in the Eighteenth-Century Chesapeake and Lowcountry* (Chapel Hill, N.C., 1998), xxii. For a discussion of acts of domestic resistance such as those just described, see 355–58.

91. Morgan, *American Slavery, American Freedom,* 328–37.

92. Hening, *Statutes,* 3:172. Joan R. Gundersen suggests that the burgesses specifically excluded propertied women from the franchise in response to female voting. See "Independence, Citizenship, and the American Revolution," *Signs* 13 (Autumn 1987–88): 59–63.

93. Hening, *Statutes,* 2:170.

94. Ibid., 2:270.

95. Brown, *Good Wives, Nasty Wenches, and Anxious Patriarchs,* 291.

96. Cynthia A. Kierner's discussion of women's political activities during and after the American Revolution is the most developed to date. See *Beyond the Household: Women's Place in the Early South* (Ithaca, N.Y., 1998), 69–110. Woody Holton touches on the political activism of Virginia women during the Revolution throughout his monograph. See *Forced Founders: Indians, Debtors, Slaves, and the Making of the American Revolution in Virginia* (Chapel Hill, N.C., 1999). Elizabeth R. Varon takes up the story of Virginia women's political activism in the 1830s. See *We Mean*

to Be Counted: White Women and Politics in Antebellum Virginia (Chapel Hill, N.C., 1998).

97. John G. Kolp and Terri L. Snyder, "Gender, Property, and Voting Rights in Eighteenth-Century Virginia," in *The Many Legalities of Early America,* ed. Bruce Mann and Christopher Tomlins (Chapel Hill, N.C., 2001), 276–92.

Chapter 2. Sexual Stories

1. On the importance of women's narrative strategies in early modern legal proceedings, see Margaret Anne Doody, "Voices of Record: Women as Witnesses and Defendants in the Old Bailey Sessions Papers," in *Representing Women: Law, Literature, and Feminism,* ed. Susan Sage Heinzelman and Zipporah Batshaw Wiseman (Durham, N.C., 1994), 287–308; and Laura Gowing, *Domestic Dangers: Women, Words, and Sex in Early Modern London* (Oxford, 1996), 232–34.

2. Seventeenth-century Virginia lawmakers did not explicitly state this policy, but it was implicit in their understandings of the status of slaves and the law of masters and servants. By the antebellum period, this idea was expressly stated by jurists. See Peter Bardaglio, *Reconstructing the Household: Families, Sex, and the Law in the Nineteenth-Century South* (Chapel Hill, N.C., 1995), 66.

3. Kathleen M. Brown finds one white woman in seventeenth-century Virginia who successfully prosecuted a white man for the lesser charge of attempted rape. See *Good Wives, Nasty Wenches, and Anxious Patriarchs: Gender, Race, and Power in Colonial Virginia* (Chapel Hill, N.C., 1996), 209 (*Butt v. Gully*), and 193–94, 207–11 (for an analysis of rape in colonial Virginia). Irmina Wawrzyczek examines women's unsuccessful attempts to prosecute for rape in seventeenth-century Virginia and documents the damage to the reputations of victims of sexual coercion. See "The Women of Accomack Versus Henry Smith: Gender, Legal Recourse, and the Social Order in Seventeenth-Century Virginia," *Virginia Magazine of History and Biography* 105 (winter 1997): 5–26. For a comparative analysis of rape in colonial America, see Sharon Block, "Coerced Sex in British North America, 1700–1820" (Ph.D. diss., Princeton University, 1995); and Mary Beth Norton, *Founding Mothers and Fathers: Gendered Power and the Forming of American Society* (New York, 1996), 347–58. For discussion of rape in other colonies, see Cornelia Hughes Dayton, *Women Before the Bar: Gender, Law, and Society in Connecticut, 1639–1789* (Chapel Hill, N.C., 1995), 231–84; Trevor Burnhard, "The Sexual Life of an Eighteenth-Century Jamaican Slave Overseer," in *Sex and Sexuality in Early America,* ed. Merril D. Smith (New York, 1998), 176–78; Jane Landers, "'In Consideration of Her Enormous Crime': Rape and Infanticide in Spanish St. Augustine," in *The Devil's Lane: Sex and Race in the Early South,* ed. Catherine Clinton and Michele Gillespie (New York, 1997), 205–17; Diane Miller Somerville, "Rape, Race, and Castration in Slave Law in the Colonial and Early South," in ibid., 74–89; and Barbara Lindeman, "'To Ravish and Carnally Know': Rape in Eighteenth-Century Massachusetts," *Signs* 10 (autumn 1984): 63–83.

Clearly, white women were more successful in prosecuting African American men for sexual crimes. After 1700, "black men were three and a half times more likely to be executed" for rape than were their white counterparts. See Block, "Coerced Sex in British North America," 123 (quotation), 123–78; and Philip Schwarz, *Twice Condemned: Slaves and the Criminal Laws of Virginia, 1705–1865* (Baton Rouge, La., 1988), 159–60.

4. Richard Godbeer, *Sexual Revolution in Early America* (Baltimore, 2002), 200–201.

5. William Byrd II, *The Secret Diary of William Byrd of Westover, 1709–1712,* ed. Louis B. Wright and Marion Tinling (Richmond, Va., 1941), 90, 425 (sexual coercion by Byrd); 7, 192 (punishing women for sexual activity). For "playing the fool"

with his slaves, see William Byrd II, *Another Secret Diary of William Byrd of Westover, 1739–1741*, ed. Maude H. Woodfin and Marion Tinling (Richmond, Va., 1942), 70. See also Godbeer, *Sexual Revolution*, 199–200, 207–8, 385, n. 42; and Brown, *Good Wives, Nasty Wenches, and Anxious Patriarchs*, 331–33.

6. Godbeer, *Sexual Revolution*, 198–99; and Brown, *Good Wives, Nasty Wenches, and Anxious Patriarchs*, 331–32. For a analysis of unfree women's attempts to counter sexual coercion, see Sharon Block, "Lines of Color, Sex, and Service: Comparative Sexual Coercion in Early America," in *Sex, Love, Race: Crossing Boundaries in North American History*, ed. Martha Hodes (New York, 1999), 141–63.

7. Block, "Lines of Color, Sex, and Service," 143.

8. York County, Virginia, Deeds, Orders, Wills [hereafter cited as YCDOW] 3, f. 149. See also Brown, *Good Wives, Nasty Wenches, and Anxious Patriarchs*, 202–3.

9. YCDOW 3, f. 149.

10. The punishment for female servants found guilty of fornication and bastardy was two years of extra service, plus an addition six months to repay the fine of five hundred pounds of tobacco to the parish. Male servants paid the same amount or served an additional six months. Convictions of fornication alone brought a fine of five hundred pounds of tobacco or six months extra service. See William Waller Hening, *The Statues at Large; Being a Collection of All the Laws of Virginia* (New York, 1823; reprint, Charlottesville, Va., 1969), 2:114–15.

11. For the June summons and orders, see YCDOW 3, f. 169. Ann Collins was summoned for fornication with two other women, Elizabeth Elliot and Elizabeth Dobson. For Pierce's release from security bond, see YCDOW 3, f. 168. For justice of the peace manuals see Mr. Lamberts, Mr. Crompton, Mr. Dalton, *Compleat Justice* (London, 1661), 32–33; and Michael Dalton, *The Countrey Justice* (London, 1677), 39–41.

12. Block, "Lines of Color, Sex, and Service," 143–48.

13. Block finds that women were extremely reluctant to report rape, but that this reluctance was based not on shame but on fear of reprisals. See "Coerced Sex in British North America," 87–122.

14. On Virginia statutes regulating the marriages of servants, see Hening, *Statutes*, 1:252–53, 438; 2:114; 3:144.

15. YCDOW 2, f. 350, Ablestone and wife, Poyner and wife, Rawlins and wife; f. 387, Pruitt and wife. All four couples were required to do penance during church service. On the comparison with fornication presentments for married couples in New Haven colony, see Dayton, *Women Before the Bar*, 182, tab. 7.

16. Brown, *Good Wives, Nasty Wenches, and Anxious Patriarchs*, 96–97, 403, n. 60.

17. James Horn argues that premarital pregnancy was widespread in Lower Norfolk County, Virginia, in comparison with similar regions in England. See *Adapting to a New World* (Chapel Hill, N.C., 1994), 210–11. It is difficult to make comparisons between fornication rates because scholars use differing areas and time frames for counting. Brown finds 220 fornication cases in three Virginia counties (York, Norfolk, and Lancaster) between 1643 and 1699; and my own tally of fornication prosecutions in York County alone totals 194 between 1645 and 1730. Dayton finds 548 cases for New Haven colony between 1670 and 1789. Fully 366 of those cases were prosecutions of married persons, and 182 were prosecutions of single persons, mostly single women. However rough these comparisons, Virginia's rates do appear to be higher. See Brown, *Good Wives, Nasty Wenches, and Anxious Patriarchs*, 190, tab. 4, 431, n. 11; and Dayton, *Women Before the Bar*, 182–83, tabs. 7 and 8.

18. Hening, *Statutes*, 3:87. Servant women would be sold for a five-year term after their indentures had expired. Their children were sold for thirty years.

19. Brown, *Good Wives, Nasty Wenches, and Anxious Patriarchs*, 199, tab. 5.

20. In York County before 1690, 9 percent of all fornication cases were dismissed or not prosecuted; after 1690, the numbers rose to 29 percent.

21. YCDOW 13, ff. 120, 125.

22. YCDOW 16, f. 527.

23. YCDOW 13, ff. 58, 66, 75–76, 93.

24. Hening, *Statutes*, 4:213–14. Women could also bargain with their labor. Both mixed-race, Mary Banks and Honor Fitch Dorrell indentured themselves for one year in order to pay their fines. See YCDOW 12, ff. 181, 188, 248, 250.

25. On the dominant and interchangeable metaphors of father and judge in early Virginia, see Rhys Isaac, *The Transformation of Virginia, 1740–1790* (Chapel Hill, N.C., 1982), 347–49.

26. Norton, *Founding Mothers and Fathers*, 347–49.

27. Benefit of clergy held that, for certain crimes, convicted persons could, by demonstrating their ability to read a psalm, escape ultimate punishment. See Hugh F. Rankin, *Criminal Trial Proceedings in the General Court of Colonial Virginia* (Williamsburg, VA, 1965) 105–6.

28. Bradley Chapin, *Criminal Justice in Colonial America, 1606–1660* (Athens, Ga., 1983), 40–47.

29. Because of the bifurcated legal system, white women were more likely to obtain rape convictions in the eighteenth century but only because black men stood accused. At least eighteen black men were charged with rape between 1670 and 1767 in lower and superior courts in Virginia; twelve were executed for their crime. See Brown, *Good Wives, Nasty Wenches, and Anxious Patriarchs*, 209–10. In contrast, eight white men were tried for rape before Virginia's superior General Court in the eighteenth century: five were acquitted, one pardoned, and two hanged. See Rankin, *Criminal Trial Proceedings*, 219–22. On the justice system in colonial Virginia, see Oliver Perry Chitwood, *Justice in Colonial Virginia* (Baltimore, 1905), 44–47. On courts of oyer and terminer, see Schwarz, *Twice Condemned*, 17–18, 25–26; and Block, "Coerced Sex in British North America," 127–33, 156–65.

30. Dayton, *Women Before the Bar*, 239 (quotation), 232–42 (discussion of rape).

31. Ibid., 246–47.

32. Brown, *Good Wives, Nasty Wenches, and Anxious Patriarchs*, 210. Block reports that in the 418 prosecuted cases in which a victim's racial or ethnic identity can be determined, white women constituted victims in 95 percent of the cases. See "Coerced Sex in British North America," 125.

33. Virginia's General Court records survive for the sixteen years, although they are supplemented with notes and excerpts from the years 1640 through the 1680s. See H. R. McIlwaine, ed., *Minutes of the Council and General Court of Colonial Virginia, 1622–1632, 1670–1676* (Richmond, Va., 1924).

34. Horn, *Adapting to a New World*, 354–55. On the successful conviction for attempted rape at the county court level, see Brown, *Good Wives, Nasty Wenches, and Anxious Patriarchs*, 209.

35. Block, "Coerced Sex in British North America," 85–122.

36. Brown also has a discussion of Elizabeth Burt. See *Good Wives, Nasty Wenches, and Anxious Patriarchs*, 207–8, 210.

37. In 1691 Richard Burt attended a Court of Claims and proved that he had taken up a runaway, for which he was given one thousand pounds of tobacco by the Virginia General Assembly (YCDOW 9, ff. 19, 37). He was sworn in as a grand juror on 29 July 1691 (f. 42) and was discharged on 24 May 1692 (f. 141). He did not, however, serve on any jury during his tenure.

38. YCDOW 9, ff. 156–59.

39. Deposition of Elizabeth Buce, YCDOW 9, ff. 175.

40. Norton, *Founding Mothers and Fathers,* 352–53.
41. Deposition of Charles Hansford, YCDOW 9, ff. 174–75.
42. Deposition of Charles Hansford, YCDOW 9, ff. 174–75.
43. Block, "Coerced Sex in British North America," 179–213.
44. Deposition of Charles Hansford, YCDOW 9, ff. 174–75.
45. Deposition of Elizabeth Buce, YCDOW 9 ff. 175.
46. Brown, *Good Wives, Nasty Wenches, and Anxious Patriarchs,* 208.
47. Depositions of Thomas Buce and Elizabeth Buce, YCDOW 9, ff. 158–59.
48. See, for example, the case of Mary Rawlins in Terri L. Snyder, "'As If There Was Not Master or Woman in the Land': Gender, Dependency, and Household Violence in Virginia, 1646–1720," in *Over the Threshold: Intimate Violence in Early America,* ed. Christine Daniels and Michael V. Kennedy (New York, 1999), 228–29.
49. In addition to the Buces and Captain Hansford, she may have told the story to Dr. Richard Starke, Isaack Sedwicke, and Thomas Chamberlaine, all of whom were summoned to give evidence for John Eaton against Richard and Elizabeth Burt (YCDOW 9, f. 174). The only surviving depositions are from Hansford and the Buces.
50. Norton, *Founding Mothers and Fathers,* 253 (quotation), 253–69 (on the social function of gossip).
51. Deposition of Charles Hansford, YCDOW 9, ff. 174–75.
52. Deposition of Charles Hansford, YCDOW 9, ff. 174–75.
53. For Eaton's jury service, see YCDOW 9, ff. 53–54, 99, 144, 155, 156; for his own suits, see ff. 40, 52. 110; for his appearance as a witness, see ff. 28, 41.
54. Isaack Sedwicke (or Sedgwicke) acted as a lawyer in York County. See YCDOW 9, f. 172, for a reference to "Isaack Sedgwicke" as an attorney and f. 174, where "Isaack Sedwicke" is listed as providing evidence for Eaton in his defamation suit against the Burts.
55. According to Dayton, to be actionable, slander after 1665 had to make an accusation of either criminal behavior, a debilitating condition, or professional incompetence. See *Women Before the Bar,* 301–2.
56. This point is made by several historians. See ibid., 285–92; Norton, *Founding Mothers and Fathers,* 253–61; and Horn, *Adapting to a New World,* 364–66.
57. *Eaton v. Burt,* YCDOW 9, ff. 173–74. See, for example, the language in the defamation suits of *Dormer v. Rigon* (YCDOW 3, f. 138), *Hill v. Slate* (YCDOW 9, f. 99–102), and *Hide v. Delony* (YCDOW 10, ff. 9–10).
58. Deposition of John Buce, YCDOW 9, f. 176.
59. *Eaton v. Burt,* YCDOW 9, f. 173.
60. In *Hill v. Slate,* 24 February 1691/92, the defendant was awarded one thousand pounds of tobacco in damages, a substantial award. This was a case, however, where adultery and attempted murder were at issue. See chapter 3, n. 55.
61. Brown, *Good Wives, Nasty Wenches, and Anxious Patriarchs,* 208.
62. For instances of the latter, see Victoria Bynum, *Unruly Women: The Politics of Social and Sexual Control in the Old South* (Chapel Hill, N.C., 1992), 117–20.
63. For Eaton's jury service prior to his defamation suit, see YCDOW 9, ff. 53–54, 99, 144, 155, 156; for his service thereafter, see YCDOW 9,f. 224.
64. Brown, *Good Wives, Nasty Wenches, and Anxious Patriarchs,* 209–10.
65. Somerville, "Rape, Race, and Castration," 82; Schwarz, *Twice Condemned,* 39.
66. Dayton, *Women Before the Bar,* 248–49.
67. Block, "Coerced Sex in British North America," 123.
68. Somerville, "Rape, Race, and Castration," 82; Dayton, *Women Before the Bar,* 231–84.
69. Gowing, *Domestic Dangers,* 234.

70. On court day, see Lorena S. Walsh, "Community Networks in the Early Chesapeake," in *Colonial Chesapeake Society,* ed. Lois Green Carr, Philip D. Morgan, and Jean B. Russo (Chapel Hill, N.C., 1988), 233–37; and Darrett B. Rutman and Anita H. Rutman, *A Place in Time: Middlesex County, Virginia, 1650–1750* (New York, 1984), 87–93, 125–27.

71. William Byrd, *The London Diary (1717–1721) and Other Writings,* ed. Louis B. Wright and Marion Tinling (New York, 1958), 447, 505 (resistance of Annie); 484 (resistance of a slave girl). See also Godbeer, *Sexual Revolution,* 199–200; Brown, *Good Wives, Nasty Wenches, and Anxious Patriarchs,* 332; and Philip D. Morgan, *Slave Counterpoint: Black Culture in the Eighteenth-Century Chesapeake and Lowcountry* (Chapel Hill, N.C., 1998), 403–4.

72. Block, *Lines of Color, Sex, and Service,* 143–57.

73. Arthur P. Scott, *Criminal Law in Colonial Virginia* (Chicago, 1930), 69–76.

74. Hening, *Statutes,* 1:304.

75. Ibid., 1:304, 3:138–40. See also Chitwood, *Justice in Colonial Virginia,* 83–85.

76. Dayton, *Women Before the Bar;* and William M. Offutt, *Of "Good Laws" and "Good Men,": Law and Society in the Delaware Valley, 1680–1710* (Urbana, Ill., 1995), 52–54.

77. Hening, *Statutes,* 2:407–8.

78. For presentments in the 1680s, see YCDOW 6, f. 546; 8, f. 504. Justices of the quorum were "eminent for their skill and discretion" and therefore required to be present for a court to be legally held. See Chitwood, "Justice in Colonial Virginia," 78–79. For presentments in the 1690s, see YCDOW 9, f. 42, 141; 10, ff. 5, 451. One man reported but refused to be sworn, and one was exempted. The grand jury made one presentment for swearing at the bar. The churchwardens made two presentments for other duty violations. For the warning, see YCDOW 9, f. 42.

79. For instance, between 1698 and 1706, the York County grand jury presented fifty-eight men: forty-four for neglecting to keep the roads clear, six for tithable violations, and one for church absence. Between 1706 and 1716, they presented eighty-five men: twenty for failing to report for duty; fifty for church violations; and the remainder for swearing, tithable, and liquor violations. See YCDOW 13, ff. 62, 73, 120, 144, 154, 187, 236, 237.

80. Cynthia B. Herrup, *The Common Peace: Participation and the Criminal Law in Seventeenth-Century England* (Cambridge, Mass., 1987), 97. For a study of the grand jury in colonial Virginia, see Gwenda Morgan, "Law and Social Change in Colonial Virginia: The Role of the Grand Jury in Richmond County, 1692–1776," *Virginia Magazine of History and Biography* 95 (October 1987): 458–59; and A. G. Roeber, *Faithful Magistrates and Republican Lawyers* (Chapel Hill, N.C., 1981), 86–90, 140–145, 176–188.

81. Herrup, *Common Peace,* 94.

82. Quoted in ibid., 95.

Chapter 3. Unwifely Speeches and the Authority of Husbands

1. Daniel Defoe, *The Fortunes and Misfortunes of the Famous Moll Flanders,* ed. Edward Kelly (New York, 1973); Aphra Behn, *The Widow Ranter: Or, the History of Bacon in Virginia,* in *The Works of Aphra Behn,* ed. Montague Summers (London, 1915; reprint, New York, 1967), 4:216–310; Ebenezer Cooke, *The Maryland Muse Containing I. The History of Colonel Nathaniel Bacon's Rebellion, and II. The Sotweed Factor* (London, 1708). The poem was revised and printed in Annapolis in 1728 and 1731. The quote that begins this chapter was excised from the later edition.

See Lawrence C. Wroth, "The Maryland Muse by Ebenezer Cooke," *Proceedings of the American Antiquarian Society* 44 (October 1934): 309–35; and Anonymous, *The Fortunate Transport; Or, the Secret History of the Life and Adventures of the Celebrated Polly Haycock* (London, 1741).

2. *Goodwife* was a designation common in seventeenth-century England and New England and referred to women of the middling sort. Laurel Thatcher Ulrich's classic study of good wives in northern New England argues that they filled several roles: as housewives, deputy husbands, consorts, mistresses, mothers, and neighbors. See *Good Wives: Image and Reality in the Lives of Women in Northern New England, 1650–1750* (New York, 1980), 8–10. Virginians did not use the designation as often as their neighbors to the north did, but certainly they understood the appellation and, more particularly, the ways in which the actions of Slate and Delony violated the role of the good wife. Indeed, as Kathleen M. Brown argues, by the eighteenth century, free white women in Virginia aspired to be plantation mistresses, which carried prerogative, rather than good wives, which implied responsibility. See *Good Wives, Nasty Wenches, and Anxious Patriarchs: Gender, Race, and Power in Colonial Virginia* (Chapel Hill, N.C., 1996), 9, 283–318.

3. Deposition of Amy Clarke, York County, Virginia, Deeds, Orders, Wills [hereafter cited as YCDOW] 10, ff. 12–13.

4. Mary Beth Norton, *Founding Mothers and Fathers: Gendered Power and the Forming of American Society* (New York, 1996), 19. These Virginia wives appear also to have been what Norton calls "fictive widows": married women who nonetheless acted with independent authority. Slate and Delony clearly "ran afoul of the rules of gendered power" because they resisted their spouses; the informal public of friends, parents, and neighbors; and eventually the formal public of the legal community (164). For extended discussions of fictive widows, see 162–65, 174, 316, 397–99.

5. Ibid., 96. Norton's discussion of Thomas Hobbes, Sir Robert Filmer, and John Locke is the best analysis of theories of patriarchal power at work in the early American colonies. See especially 96–114.

6. Christine Daniels makes this point about servants who defy their masters. See "Liberty to Complaine:" Servant Petitions in Maryland, 1652–1797," in *The Many Legalities of Early America,* ed. Christopher L. Tomlins and Bruce H. Mann (Chapel Hill, N.C., 2001), 237. I extend her observation here to husbands as well.

7. Cornelia Hughes Dayton, *Women Before the Bar: Gender, Law, and Society in Connecticut, 1639–1789* (Chapel Hill, N.C.), 154–65; Lawrence Stone, *Road to Divorce: England, 1530–1987* (New York, 1990), 6–8; and Norton, *Founding Fathers and Mothers,* 74–75.

8. Stone, *Road to Divorce,* 231–44.

9. Stone reports that husbands negotiated privately with their wives' lovers and demanded payment in return for not exposing the latter to the ecclesiastical courts. See ibid., 244. Before the sixteenth century, common law remedies for wife adultery were primarily writs for abduction and ravishment, often fictionalized, which had to prove force and violence. These fell out of favor as new forms of litigation emerged in the seventeenth century, such as loss of consortium and criminal conversation, which had to demonstrate the indirect injury sustained by the husband when a marital interloper deprived him of his wife's affections. See Laura Hanft Korobkin, *Criminal Conversations: Sentimentality and Nineteenth-Century Legal Stories of Adultery* (New York, 1998), 44–51; Jeremy D. Weinstein, "Adultery, Law, and the State: A History," *Hastings Law Journal* 38 (November 1986): 214–20; and Stone, *Road to Divorce,* 231–47.

10. Stone, *Road to Divorce,* 241–43. Keith Thomas argues that, even under eccle-

siastical courts, wives were "seldom able" to claim separation from their husbands. See "The Double Standard," *Journal of the History of Ideas* 20 (April 1959): 200 (quotation), 200–202 (double standard and adultery).

11. Gender and race in colonial Virginia were mutually influencing categories—that is, the law of slavery and the cultural values of gender evolved in relationship to one another. See Brown, *Good Wives, Nasty Wenches, and Anxious Patriarchs,* 75–136.

12. On the comparison to New England colonies, see Norton, *Founding Fathers and Mothers,* 74–75, 342–47; Dayton, *Women Before the Bar,* 164–72; and Roger Thompson, *Sex in Middlesex: Popular Mores in a Massachusetts County, 1649–1699* (Amherst, Mass., 1989), 128–54.

13. William Waller Hening, *The Statues at Large; Being a Collection of All the Laws of Virginia* (New York, 1823; reprint, Charlottesville, Va., 1969), 1:240, 310. In 1696, grand juries were expressly authorized to make presentments for adultery and other morals violations (3:139). It is possible that they were authorized to do so as early as 1661, when a statute directed them to make presentments for "breach of all penall laws" (2:74).

14. On Virginia statutes regarding adultery, see ibid., 1:240, 310, 433; 3:139, 361. A proclamation issued by Governor Francis Nicholson in 1692 reminded Virginians of the 1691 law against "swearing cursing blaspheaming God's holy name Sabbath abuseing drunkeness fornication and adultery." The proclamation was to be read every two months in the colony's churches, and justices were to put grand juries and churchwardens "in minde of it" (YCDOW 9, f. 181). North Carolina appears to have regulated adultery in much the same fashion as Virginia, fining adulterers five pounds. See Kirsten Fischer, *Suspect Relations: Sex, Race, and Resistance in Colonial North Carolina* (Ithaca, N.Y., 2002), 103, 112–14.

15. Rituals of penance were used as punishments for defamation as well as sexual crimes. See Clara Ann Bowler, "Carted Whores and White Shrouded Apologies: Slander in the County Courts of Seventeenth-Century Virginia," *Virginia Magazine of History and Biography* 85 (October 1977): 415–16; R. H. Helmholz, "Canonical Defamation in Medieval England," *American Journal of Legal History* 15 (October 1971): 257–64; and Brown, *Good Wives, Nasty Wenches, and Anxious Patriarchs,* 189.

16. The court seems to have overridden the vestry in this decision, probably because Storkey was presented not only for adultery but also for fornication and running away. See Susie M. Ames, *County Court Records of Accomack-Northampton, Virginia, 1640–1645* (Charlottesville, Va., 1973), 117 (Storkey), 290–93 (Jones and West). The white sheet symbolized Storkey's purification. See Brown, *Good Wives, Nasty Wenches, and Anxious Patriarchs,* 189.

17. Hening, *Statutes,* 3:138–39.

18. Following are the presentments for adultery in York County between 1640 and 1740. Sarah Davis and John Stevens were presented by the minister and churchwardens of New Poquoson parish for adultery (YCDOW 2, f. 387). Martin Becker and Sarah Holyatt were presented for "incontennency," a lesser charge than actual adultery. Becker was ordered to leave Holyatt alone, as was typical in adultery litigation, but no further punishment was specified (see YCDOW 2, f. 414). Thomas Heyricke and Rebecca Noble were presented for "Adultery and fornication," but Heyricke claimed that Noble had had sexual relations with two Afro-Virginians and had perhaps married one of them. He was subsequently cleared of all charges, while she was sentenced to ten lashes and public penance (YCDOW 3, f. 129). For a discussion of the racial implications of this case, see Brown, *Good Wives, Nasty Wenches, and Anxious Patriarchs,* 188–89. Mary Oliver was presented for adultery with a "negro" (YCDOW 9, f. 332), and Job Cocking was presented for "keeping another man's wife and living in the

sin of Adultery with her" (YCDOW 10, f. 107). Francis Penrice was presented in 1689 for "fornication and bastardy" with his wife's sister; but because the court did not explicitly state adultery, I have not included it in my total, even though he was sentenced to pubic penance in a white sheet, an unusual verdict after 1660 (YCDOW 8, f. 249).

It is important to recognize that this handful of cases fails to capture all instances of adultery, even those with which the court was familiar. For instance, in 1705 when Thomas Sessions complained that his wife Hester was living with James Darbyshire and that the couple used Sessions's property, the court ordered Hester and James to part but did not explicitly order any punishment for either one. Instead, they ordered that the Sessions estate be divided between husband and wife. YCDOW 12, f. 328, and Brown, *Good Wives, Nasty Wenches, and Anxious Patriarchs,* 337.

19. James Horn, *Adapting to a New World: English Society in the Seventeenth-Century Chesapeake* (Chapel Hill, N.C., 1994), 352–53, tab. 33.

20. Of the nineteen indicted for adultery between 1711 and 1790, only six were convicted. See Dayton, *Women Before the Bar,* 167, n. 17., 167–68.

21. Ibid., 32–33, 164–73; Norton, *Founding Mothers and Fathers,* 74, 342–47; and Thompson, *Sex in Middlesex,* 128–54.

22. Stone argues that this shift to restoring male honor through civil litigation resulting in monetary damages began around 1670. Although adultery had always been seen as a violation of husbands' property rights, husbands preferred private remedies to public disclosure. See Stone, *Road to Divorce,* 236–43. Certainly Virginians understood the interests held by husbands in the bodies of their wives. As early as 1627, the governor and council of Virginia presented Henry Kinge and the wife of John Jackson on "suspicion of incontinency." Their directive that Kinge not "use or frequent her company until her husband's retourn" underscored the status of the unnamed "wife of John Jackson" as that of an object belonging to her husband. See Hening, *Statutes,* 1:145.

23. Weinstein, "Adultery, Law, and the State," 216–17.

24. Ibid., 216–17, 220; Stone, *Road to Divorce,* 231–48; Dayton, *Women Before the Bar,* 81, n. 20.

25. Stone, *Road to Divorce,* 186–87; Thomas, "Double Standard," 200–202.

26. The generic action on the case was the "outstanding single cause" heard at assize sessions in post-Restoration England. See A. G. Roeber, *Faithful Magistrates and Republican Lawyers: Creators of Virginia Legal Culture, 1680–1810* (Chapel Hill, N.C., 1981), 16. It was an action that could serve as a vehicle for obtaining remedies for a variety of indirect injuries. In York County, for instance, case actions could involve injuries to a variety of property, including livestock, servants, slaves, or crops.

27. YCDOW 9, f. 202. A similar example of a civil suit over adultery, this time between two free men, can be found in the York orders for 1702. John Billingsley sued Lawrence Green in an action of "trespass, assault and battery and so forth" for "detaining and keeping" Billingsley's wife. The suit was dismissed when Billingsley failed to further prosecute his case (YCODW 12, f. 95).

28. Pond had purchased indentures for Cornelius and Ann Cornute in December 1691. The couple had a daughter by April 1692; and sometime before September of the same year, Pond sold Cornelius's indenture but retained Ann's (YCDOW 9, f. 202). Cornell Cornute's five-year indenture ended in December 1695, when the York court ordered that he was to be released from his term, having served his time "faithfully" (YCDOW 10, f. 242). Because September 1692 was the date recollected by witnesses to the adultery, I reason that Cornell Cornute had been sold away from the Pond's household by that time. See note 33.

29. See *Gibbons v. Rea,* YCDOW 9, f. 224.

30. By the end of the century, the tort of criminal conversation emerged as the specific legal action for the loss of consortium and adultery litigation. See Korobkin, *Criminal Conversation,* 49–50; Weinstein, "Adultery, Law, and the State" 218–19; and Lawrence Stone, *Broken Lives: Separation and Divorce in England, 1660–1857* (New York, 1993), 22–25.

31. On the treatment of indentured servant women who were victims of sexual coercion, see chapter 2, note 3.On consensual lovers, see the order of the governor and council (note 22 in this chapter).

32. Weinstein, "Adultery, Law, and the State," 218–19.

33. The words come from the deposition of Thomas Mountain. His wife Elizabeth "deposeth as above" (YCDOW 9, f. 202).

34. Trevor Burnard, "Theater of Terror: Domestic Violence in Thomas Thistlewood's Jamaica, 1750–1786," in *Over the Threshold: Intimate Violence in Early America,* ed. Christine Daniels and Michael V. Kennedy (New York, 1999), 247.

35. William Byrd, *The Secret Diary of William Byrd of Westover, 1709–1712,* ed. Louis B. Wright and Marion Tinling (Richmond, Va., 1958), 7, 192.

36. Bill Overton, *The Novel of Female Adultery: Love and Gender in Continental European Fiction, 1830–1900* (London, 1996), 9. Other work on adultery in early modern and modern European, British, and American fiction include Georgina Dopico Black, *Perfect Wives, Other Women: Adultery and Inquisition in Early Modern Spain* (Durham, N.C., 2001); Peggy McCracken, *The Romance of Adultery: Queenship and Sexual Transgression in Old French Literature* (Philadelphia, 1998); Richard Helgerson, *Adulterous Alliances: Home, State, and History in Early Modern European Drama and Painting* (Chicago, 2000); Ilse Born-Lechleitner, *The Motif of Adultery in Elizabethan, Jacobean, and Caroline Tragedy* (Lewiston, N.Y., 1995); Barbara Lecke, *Culture and Adultery: The Novel, the Newspaper, and the Law, 1857–1914* (Philadelphia, 1999); and Korobkin, *Criminal Conversations.*

37. Joy Wiltenburg, *Disorderly Women and Female Power in the Street Literature of Early Modern England and Germany* (Charlottesville, Va., 1992), 102; see also 103–6, 152–60. On adultery in early modern ballads, see Elizabeth Foyster, "A Laughing Matter? Marital Discord and Gender Control in Seventeenth-Century England," *Rural History* 4 (April 1993): 6–77. Dayton also makes this point in *Women Before the Bar,* 165.

38. Wiltenburg, *Disorderly Women,* 102–6, 152–60. In contrast to the theme of adultery in early modern print culture, the theme of rape was uncommon. Farcical accounts of rape predominated over more serious treatments of the crime. When print culture did treat rape seriously, it was depicted as a damage to a husband's property (200–6).

39. Depositions of John Seborne and James Wright, YCDOW 9, f. 100.

40. Emphasis mine. Deposition of John Seborne, YCDOW 9, f. 100.

41. Depositions of John Seborne and James Wright, YCDOW 9, f. 100.

42. Robert Slate discovered his wife with Hill in January 1692. See the deposition of John Seborne, YCDOW 9, f. 100. The statute on adultery was enacted during the April 1691 session of the Virginia House of Burgesses. See Hening, *Statutes,* 3:74. For further revisions to the law, see 3:139, 361. For earlier statutes on adultery enacted before and during the Commonwealth period, see 1:240, 310, 433.

43. YCDOW 9, f. 99.

44. All testimony was "Sworne to in Court," which is noted below each deposition. See the depositions of John Seborne, John Wright, Thomas Wooten, Thomas Dunston, and James Blackstone, YCDOW 9, ff. 100–101. The narrative of the case proceedings indicate that after James Hill's charges were read, Robert Slate confessed that

he had indeed so spoken but also that his words were true and subsequently "putt upon the proofe" of his words. Since the proof could only have been provided by witnesses' testimony, it seems likely that they testified in open court. See *Hill v. Slate,* YCDOW 9, f. 99.

45. Deposition of Thomas Dunston, YCDOW 9, f. 101.

46. This lack of neighborly interference was typical of Chesapeake households. According to Norton, after the mid-seventeenth century, the Chesapeake colonies were "de facto Lockean states," which meant, in part, that those societies were "less inclined to intervene in disorderly households." See *Founding Mothers and Fathers,* 292 (quotation), 289–92 (discussion of the Lockean nature of the Chesapeake).

47. According to their depositions, Robert Slate directly sought out John Wright and James Blackstone (YCDOW 9, ff. 100, 101). The third witness, John Seborne, testified that Slate came to his house but only related the news of the affair when Mrs. Seborne's questions prompted him to do so (YCDOW 9, f. 100).

48. Deposition of John Wright, YCDOW 9, f. 100.

49. Deposition of John Wright, YCDOW 9, f. 100.

50. Deposition of James Blackstone, YCDOW 9f. 101.

51. Deposition of John Seborne, YCDOW 9f. 100.

52. Stone argues that shame punishments were so "psychologically wounding" that lovers were often willing to pay for husbands' silences. See *Road to Divorce,* 244.

53. Deposition of John Wooton, YCDOW 9, f. 101.

54. Dayton, *Women Before the Bar,* 285–328; Norton, *Founding Mothers and Fathers,* 201–39. John Eaton, the man whom Elizabeth Burt alleged to have raped her (see chap. 2), served on the jury that heard *Hill v. Slate,* where he may have gotten the idea for filing a defensive defamation suit. Apparently, however, he did not realize that such suits could cut both ways and backfire on the plaintiff. See YCDOW 9, f. 99.

55. YCDOW 9, f. 99.

56. Charles Parish Register, 9 June 1692, Virginia State Library. This suggests that Slate's complaints became urgent in January 1692, perhaps because Elizabeth Slate's pregnancy was beginning to be evident.

57. YCDOW 10, f. 361.

58. Brown, *Good Wives, Nasty Wenches, and Anxious Patriarchs,* 337–38, 465, n. 48. For similar cases of public announcements in colonial southern newspapers, see Julia Cherry Spruill, *Women's Life and Work in the Southern Colonies* (Chapel Hill, N.C., 1938; reprint, New York, 1972), 178–84.

59. Deed of Robert Slate to daughter Elizabeth, 24 July 1701, YCDOW 11, f. 487.

60. Mechal Sobel makes this point about the self-fashioning of colonial women in their dreams in *Teach Me Dreams: The Search for Self in the Revolutionary Era* (Princeton, N.J., 2000), 167.

61. For Robert Hide's service to the York court, see YCDOW 9, ff. 209, 252, 297, 337; for his service on the *Hill v. Slate* jury, see f. 99; for his indebtedness to Lewis Burwell, see f. 199; for his importation of servants, see f. 213. Robert Slate was also presented by the grand jury for "rakeing of ground on the sabbath day" but did not appear because he was sick, and the suit seems to have been subsequently dismissed (YCDOW 11, f. 69).

62. Deposition of John Anderson, YCDOW 10, f. 11.

63. YCDOW 9, f. 40.

64. Deposition of Amy Clark, YCDOW 10, ff. 12–13.

65. Depositions of John Anderson, Rachell Anderson, and Amy Clark, YCDOW 10, ff. 11–13.

66. Barbara A. Hanawalt argues that in medieval rural Europe women who stepped

outside of their physical space risked marginality if they did not assume the proper comportment. Concomitantly, when Delony uttered her disorderly speeches in the neighborhood, she became a marginal woman. See Barbara A. Hanawalt, *"Of Good and Ill Repute": Gender and Social Control in Medieval England* (New York, 1998), 70–97. For a discussion of the polluting and dangerous quality of women's words in male spaces, see Mary Douglas, *Purity and Danger* (London, 1966), 140–58.

67. See, for instance, Laura Gowing, *Domestic Dangers: Women, Words, and Sex in Early Modern London* (New York, 1996), 116–18.

68. Margaret Anne Doody argues that the less respectable women are as perpetrators of crimes, the more they are silenced in the courtroom. Such women, like Elizabeth Burt and Joanna Delony, are effectively "ventriloquized" by witnesses. See "Voices of Record: Women as Witnesses and Defendants in the Old Bailey Sessions Papers," in *Representing Women: Law, Literature, and Feminism,* ed. Susan Sage Heinzelman and Zipporah Batshaw Wiseman (Durham, N.C., 1994), 293 (quotation), 305.

69. John Seborne deposed that Slate came to his "house," as did John Wright. Likewise, James Blackstone, the grand juryman, testified that Slate came to him (YCDOW 9, ff. 100–101).

70. Deposition of John Porter, YCDOW 10, f. 12.

71. Deposition of John Anderson, YCDOW 10, f. 11.

72. Brown, *Good Wives, Nasty Wenches, and Anxious Patriarchs,* 210–11.

73. Mary Gorman delivered a child on board the ship, was sold as a female servant upon her arrival in Virginia, and returned to North Carolina, where she was tried for infanticide. See Fischer, *Sex, Race, and Resistance,* 98–100.

74. This interpretation of cross-dressing has been informed by Valerie R. Hotchkiss, *Clothes Make the Man: Female Crossdressing in Medieval Europe* (New York, 1996), 83–104. For the connection between female cross-dressing and the meaning of female heroism, see Dianne Dugaw, *Warrior Women and Popular Balladry, 1650–1850* (Chicago, 1996), 1–5.

75. Dugaw, *Warrior Women,* 2.

76. YCDOW 10, ff. 9–10.

77. YCDOW 10, f. 10.

78. YCDOW 10, f. 53. For cancellations of the September and October courts, see YCDOW 10, ff. 49, 51.

79. YCDOW 10, f. 365, 371. See also Brown, *Good Wives, Nasty Wenches, and Anxious Patriarchs,* 336, 465, n. 44.

80. Norton, *Founding Mothers and Fathers,* 277.

81. Hening, *Statutes,* 3:87–88, 453; Brown, *Good Wives, Nasty Wenches, and Anxious Patriarchs,* 198 (quotation), 194–201 (for a discussion of sexualizing race).

82. Ira Berlin, *Many Thousands Gone: The First Two Centuries of Slavery in North America* (Cambridge, 1998), 8 (quotation), 105–41 (on the evolution of the Chesapeake as a slave society); Brown, *Good Wives, Nasty Wenches, and Anxious Patriarchs,* 107–246. See also Edmund S. Morgan, *American Slavery, American Freedom: The Ordeal of Colonial Virginia* (New York, 1975), 218–315; Allan Kulikoff, *Tobacco and Slaves: The Development of Southern Cultures in the Chesapeake, 1680–1800* (Chapel Hill, N.C.), 1986), 6, 38–44; David W. Galenson, *White Servitude in Colonial America: An Economic Analysis* (New York, 1981), 149–76; Peter Kolchin, *American Slavery, 1619–1877* (New York, 1993), 8–12; Russell Menard, "From Servants to Slaves: The Transformation of the Chesapeake Labor System," *Southern Studies* 16 (Fall 1977): 355–90; Russell Menard, "From Servant to Freeholder: Status Mobility and Property Accumulation in Seventeenth-Century Maryland," *William and Mary Quarterly* 30 (January 1973):47–64; and Horn, *Adapting to a New World,* 251–92.

Chapter 4. Freedom, Dependency, and the Power of Women's Speech

1. For the meanings of violence in early modern England, see Susan Dwyer Amussen, "Punishment, Discipline, and Power: The Social Meanings of Violence in Early Modern England," *Journal of British Studies* 34 (January 1995): 1–34. For an excellent analysis of the disciplinary use of violence in the plantation regime of Jamaica, see Trevor Burnard, "Theater of Terror: Domestic Violence in Thomas Thistlewood's Jamaica, 1750–1786," in *Over the Threshold: Intimate Violence in Early America,* ed. Christine Daniels and Michael V. Kennedy (New York, 1999), 237–53.

2. Statistics on household violence in early America, while telling, undoubtedly miss complaints that were made to individual justices. Note that Virginia's statute directs servants to make complaints to a single justice. Most complaints would not go forward unless the master was recalcitrant or the situation particularly egregious. On this point, G. S. Rowe and Jack D. Marietta argue that early American records are both "incomplete and laconic" because complaints of domestic physical abuse in Pennsylvania may have been handled by individual justices of the peace, whose records, in large part, have not survived. See "Personal Violence in a 'Peaceable Kingdom,' Pennsylvania, 1682–1801," in *Over the Threshold,* ed. Daniels and Kennedy, 23.

On the statute governing servant complaints in Virginia see William Waller Hening, *The Statutes at Large* (New York, 1823; reprint, Charlottesville, Va., 1969), 1:255, 2:117–18.

3. For discussions of the differences between the legal rights of servants and slaves, see Christine Daniels, "'Liberty to Complaine': Servant Petitions in Maryland, 1652–1797," in *The Many Legalities of Early America,* ed. Christopher Tomlins and Bruce H. Mann (Chapel Hill, N.C., 2001), 119–225; Philip D. Morgan, *Slave Counterpoint: Black Culture in the Eighteenth-Century Chesapeake and Low Country* (Chapel Hill, N.C., 1998), 261–63, 271; Warren M. Billings, "The Law of Servants and Slaves in Seventeenth-Century Virginia," *Virginia Magazine of History and Biography* 99 (January 1991): 45–62; Edmund S. Morgan, *American Slavery, American Freedom: The Ordeal of Colonial Virginia* (New York, 1976), 295–315; and Winthrop D. Jordan, *White Over Black: American Attitudes Toward the Negro, 1550–1812* (New York, 1968), 47–56.

4. Daniels, "Liberty to Complaine," 248.

5. Ibid., 241, tab. 7.

6. Between 1645 and 1740, seventy-six servants made petitions to the York County Court, 64 percent of them men and 36 percent women. Women, however, enjoyed a 79 percent success rate, higher than the 60 percent success rate for male petitioners. The bulk of men's petitions for ill-usage came in the eighteenth century, as slavery metamorphosed from a liminal to a codified institution. White men were much more intolerant of punishments such as whipping and beating because, in the eighteenth century, those were to be reserved for slaves. Women's complaints remain balanced throughout the entire period under study. In seventeenth-century Maryland, female servants were more likely than men to complain of ill-usage: 38 percent of female servants' complaints cited physical abuse, while 8 percent of male servants' complaints did so. See Daniels, "Liberty to Complaine," 238.

7. Morgan, *Slave Counterpoint,* 10–12; Kathleen M. Brown, *Good Wives, Nasty Wenches, and Anxious Patriarchs: Gender, Race, and Power in Colonial Virginia* (Chapel Hill, N.C., 1996), 107–9, 112–13, 223–25.

8. Elizabeth Key's suit also claimed that she had completed her term of service. See Warren M. Billings, "The Cases of Fernando and Elizabeth Key: A Note on the Status of Blacks in Seventeenth-Century Virginia," *William and Mary Quarterly,* 3d ser., 30 (July, 1973): 467–74; Morgan, *American Slavery, American Freedom,* 334; and Brown, *Good Wives, Nasty Wenches, and Anxious Patriarchs,* 132.

9. Hening, *Statutes,* 2:170, 260; Morgan, *American Slavery, American Freedom,* 331–32; Brown, *Good Wives, Nasty Wenches, and Anxious Patriarchs,* 223–25.

10. See the case of Mary Aggie, discussed later in the chapter, and the petition of William Catillah, the son of a male slave and free mother, in York County, Virginia, Deeds, Orders, Wills [hereafter cited as YCDOW] 10, ff., 137, 153.

11. Hening, *Statutes,* 2:118. This law was a codification of English common law practices governing masters and servants. Even though Virginia's statutes did not explicitly address the issue until 1662, servants always retained the right to complain of the abuses of masters.

12. For instance, John Russell, the master of Mary Rawlins, seems to have beaten her on her shoulders and upper arms, areas that her clothing might have covered (discussed later in the chapter). Randolph A. Roth argues that domestic batterers "meted out violence carefully in part to avoid prosecution." When a New Hampshire wife told her husband in 1840 that she intended to swear out a complaint against him for abuse, he told her that she should "shew her marks," knowing that, because she had none, the complaint would not be followed up. See "Spousal Murder in Northern New England, 1776–1865," *Over the Threshold,* ed. Daniels and Kennedy, 73.

13. In contrast to Virginia, Daniels finds that Maryland justices were willing to prosecute servant complaints. See "Liberty to Complaine," 222–23, 230, tab. 3.

14. For instance, Napho, a York County slave, sued for his freedom but lost his suit when his white witnesses failed to appear. He probably remained a slave. One of those witnesses, Mary Oliver, was subsequently presented for adultery with a black man, perhaps as a means of silencing her. See Brown, *Good Wives, Nasty Wenches, and Anxious Patriarchs,* 224.

15. Daniels, "Liberty to Complaine," 238; and Terri L. Snyder, "'As If There Was Not Master or Woman in the Land': Gender, Dependency, and Household Violence in Virginia, 1646–1720," in *Over the Threshold,* ed. Daniels and Kennedy, 222–24.

16. Masters understood that because slavery was a permanent condition, slaves had few incentives to work or be obedient, unlike the white indentured servants who would eventually gain their liberty. Submission therefore had to be obtained through terror, and masters inflicted higher levels of pain on slaves, finding it "necessary to beat slaves harder than servants." See Morgan, *American Slavery, American Freedom,* 312. This is particularly true in Virginia after the mid-seventeenth century, when legislation accounted it a nonfelony for masters to kill their slaves in the process of correcting them. See Hening, *Statutes,* 2:270. For discussions of this law and its implications, see also Morgan, *American Slavery, American Freedom,* 312; and Morgan, *Slave Counterpoint,* 263.

17. For references to the association of Christian with white and un-Christian with black, see Hening, *Statutes,* 2:117 (runaways), 3:447, 449 ("An Act concerning Servants and Slaves"). By the end of the seventeenth century, Virginian laws distinguished between English and "negros, mulattoes, or Indians, although christians, or Jews, Moors, Mahometans" (3:449–50).

18. Roth, "Spousal Murder in Northern New England," 65.

19. See, for instance, Burnhard, "Theater of Terror," 242.

20. Daniels, "Liberty to Complaine," 244. See also Lois Green Carr and Lorena S. Walsh, "The Standard of Living in the Colonial Chesapeake," *William and Mary Quarterly* 45 (January 1988): 135–59.

21. "The Betray'd Maid," *The Jovial Gamester's Garland, Composed of Several Excellent New Songs* (Newcastle, U.K., ca. 1768), 5–6, also titled "The Trappan'd Maiden: or, the Distressed Damsel" (London, 1690), and sung to the tune of "Virginny, or When that I was weary, weary, O," reprinted in C. H. Firth, *An American Garland, Being a Collection of Ballads Relating to America, 1563–1759* (Oxford, 1915), 51–53.;

also found in Burlington Fawcett, *Broadside Ballads of the Restoration Period from the Jersey Collection Known as the Osterley Park Ballads* (London, 1930), 236–39.

22. Morgan Godwin, "The Negro's and Indians Advocate, Suing for the Admission into the Court" (London, 1680), 81.

23. *Countrey Justice* went through nine editions between 1618 and 1642. I use the 1661 edition, which Billings finds most reliable. For the chapter on relations between masters and laborers, see Dalton, *Countrey Justice* (London, 1661), 86–95.

24. Morgan, *American Slavery, American Freedom,* 123–30; James Horn, *Adapting to a New World: English Society in the Seventeenth-Century Chesapeake* (Chapel Hill, N.C., 1994), 266–76.

25. Hening, *Statutes,* 1:232–55, 401, 438–40. These same statutes were reenacted in the 1660s (2:113–19, 164–70, 239–40).

26. According to *Countrey Justice,* masters were allowed to "chastise" servants "with moderation," Dalton, *Countrey Justice,* 85–56. See also Bradley Chapin, *Criminal Justice in Colonial America, 1606–1660* (Athens, Ga., 1983), 136–37; Arthur P. Scott, *Criminal Law in Colonial Virginia* (Chicago, 1930), 293; Elizabeth Haight, "Heirs of Tradition/Creators of Change: Law and Stability on Virginia's Eastern Shore, 1633–1663" (Ph.D. diss., University of Virginia, 1987), 10–13, 278–80.

27. Daniels finds that female servants formed 25 percent of seventeenth-century petitioners and 15 percent of eighteenth-century petitioners. Daniels, "Liberty to Complaine,"240–241.

28. Ibid., 241.

29. Male servants in particular struck back at mistresses who beat them with sticks, reflecting their ambivalence about female dominion. See Snyder, "As If There Was not Master," 223–25.

30. Hening, *Statutes,* 2:116–17 (runaways),117–18 (cruelty of masters), 118 (unruly servants).

31. Jennifer Banks, "'A New Home' for Whom? Caroline Kirkland Exposes Domestic Abuse on the Michigan Frontier," in *Over the Threshold,* ed. Daniels and Kennedy, 136; Robert V. Sigler, *Domestic Violence in Context: An Assessment of Community Attitudes* (Lexington, Mass., 1989), 8–9.

32. How Mary Rawlins obtained an audience with Governor Berkeley remains a mystery; his note only tells us that "here hath been a women [*sic*] servant with mee who hath been most unchristianly & cruelly used by hir Master one Jno Russell" (YCDOW 3, f. 123).

33. According to Berkeley, Russell was to give security for "his better using" of Rawlins; and his warning to Russell is also recorded (YCDOW 3, f. 123).

34. Sir William Berkeley to Major Joseph Crowshaw, YCDOW 3, f. 123.

35. According to one witness, Rawlins was first beaten by Russell on 29 April 1661. See the deposition of Edward Clarke, YCDOW 3, f. 124. Her visit to the Berkeleys, her examinations, and the summons to John Russell all occurred by 2 May 1661. The deposition of Mary Hawthorne is the clearest in its outline of the sequence of events. Hawthorne deposed that "bout the 2nd. of May instant being at Majr Croshawes house[,] Capt Daniel Parkes[.] Mr John Russell & his wife being also there the said Russell & his wife came for a Mayd servant named Mary Rawlins who was runne away & came to Majr Crowshaw to complaine." See Deposition of Mary Hawthorne, YCDOW 3, f. 123.

36. Deposition of Mary Hawthorne, YCDOW 3, f. 123.

37. Deposition of Henry Blagrave, YCDOW 3, f. 124, and Deposition of Samuell Tracy, both YCDOW 3, f. 124. Blagrave examined Mary Rawlins, and Tracy provided medicines for her.

38. YCDOW 3, f. 123.

39. The order notes that Russell had been required to "give security for his unchristian like usage & unlawfull correction towards Mary Rawlins" but that he forfeited the bond for "using uncivll contempt & rude language towards Majr Joseph Croshaw." See Deposition of Mary Hawthorne, YCDOW 3, f. 121. As we shall see, however, depositions suggest that Russell had brutalized Mary Rawlins a second time, sometime after 6 May and before 1 June 1661.

40. Deposition of Jane Middleton, YCDOW 3, f. 123.

41. See Daniels, "Liberty to Complaine," 239–40.

42. Deposition of Jane Middleton, YCDOW 3, f. 123.

43. See, for example, the depositions of William Parman, Thomas Middleton, and Edward Clarke, YCDOW 3, f. 124.

44. Depositions of Jane Middleton, Mary Hawthorne, Elinor Thomas, and Henry Blagrave, YCDOW 3, ff. 123–24.

45. The violence between Bridgett Russell and Mary Rawlins erupted when John Russell was away from the plantation, which is typical of servant-on-master violence. See Snyder, "As If There Was Not Master," 223–26.

46. Deposition of William Parman, deposition of Thomas Middleton, deposition of Edward Clark, all YCDOW 3, f. 124.

47. Deposition of Mary Hawthorne, YCDOW 3, f. 123.

48. Deposition of Elinor Thomas, YCDOW 3, f. 123.

49. Deposition of Henry Blagrave, YCDOW 3, f. 124.

50. Deposition of Henry Blagrave, YCDOW 3, f. 124.

51. Deposition of Dorothy Horsington, YCDOW 3, f. 123.

52. YCDOW 6, f. 462, 478, 493.

53. Secretary Nicholas Spencer to Sir Leoline Jenkins, 28 May 1682, Colonial Orders, Public Record Office 1/48, ff. 263–64.

54. Deposition of Elizabeth Cole, YCDOW 6, f. 493, 497.

55. Captain Archer's three servants, John Hooker, Mary Ditton, and Mary Howlett, ran away with a slave so had to serve the term of his absence as well. Still, the penalty was excessive by seventeenth-century Virginia standards (YCDOW 6, f. 448).

56. Deposition of Elizabeth Cole, YCDOW 6, f. 497.

57. "The Declaration of Sarah 'the Molatto'" precedes her statement. The order concludes with the notation "Declared to in open Court" (YCDOW 6, f. 529). In contrast, the deposition of sixteen-year-old William Unthanks was preceded by the statement "The Deposition of William Unthanks aged 16 yrs"; below his statement is the note that it was "Sworn to in open Court. by sd Wm. Unthanks" (YCDOW 6, f. 529).

58. For a discussion of race, slavery, and rules of evidence under the law, see Thomas D. Morris, *Southern Slavery and the Law, 1619–1860* (Chapel Hill, N.C., 1996), 229–48.

59. Hening, *Statutes,* 3:298, 4:327; for a statute on the trials of slaves, see 3:126–28.

60. Deposition of Sarah "the Molatto," YCDOW 6, f. 529.

61. For the sequence of events, see the depositions of William Unthanks, Sarah the Mulatto, Mary James, Edward Askew, George Jackson, and Ralph Flowers, YCDOW 6, ff. 529–31. See also the court order to imprison Charles Crompton (YCDOW 6, ff. 526–27) and the order for the attachment against Crompton for security for the saddle (YCDOW 6, f. 582).

62. Deposition of George Jackson, YCDOW 6, f. 530.

63. YCDOW 6, ff. 526–27.

64. Deposition of Sarah "the Molatto," YCDOW 6, f. 529.

65. Deposition of Sarah "the Molatto," YCDOW 6, f. 529.

66. Deposition of Sarah "the Molatto," YCDOW 6, f. 529.

67. YCDOW 15, ff. 562–63; YCDOW 16, f. 19 (Cunningham's ownership of a "negro woman" and the value of Mary Aggie in his estate inventory); YCDOW 17, f. 113 (Ann Sullivant ownership). Although John M. Hemphill II describes Aggie as the slave of Susanna Allen, it appears more likely that she sold Aggie to Cunningham since he died in possession of her. My thanks to Julie Richter for pointing out this sequence of ownership. See also John M. Hemphill II, "Aggie, Mary," in *Dictionary of Virginia Biography*, ed. John T. Kneebone, J. Jefferson Looney, Brent Tarter, and Sandra Gioia Treadway (Richmond, Va., 1998), 1:42–43.

68. York County Records Project, Biographical Files, Ann Marot Sullivant.

69. YCDOW 16, ff. 75, 238, 302.

70. Inventory of John Marot, YCDOW 15, ff. 242–46.

71. Governor William Gooch to Edmund Gibson, *Virginia Magazine of History and Biography* 32 (July 1924):324.

72. YCDOW 17, ff. 113–14, 123–24.

73. Philip J. Schwarz, *Slave Laws in Virginia* (Athens, Ga., 1996), 71, 78, 88, 90–91.

74. Gooch to Gibson, 324.

75. H. R. McIlwaine, ed., *Executive Journals of the Council of Virginia* (Richmond, Va., 1923) 4:243; Hemphill, "Aggie, Mary" 42.

76. Hening, *Statutes*, 4:325–27. To a certain extent, this statute brought Virginia practices into line with those of England; England had extended clergy to women and had dropped the literacy requirement. For a discussion of Gooch's political concerns in the 1720s and 1730s see Warren M Billings, John E. Selby, and Thad W. Tate, *Colonial Virginia: A History* (White Plains, NY), 236–41.

77. Schwarz, *Slave Laws in Virginia*, 82.

78. Hemphill, "Aggie, Mary," 43.

79. The connection between Mary Aggie, Lieutenant Governor Gooch, and the act that extended benefit of clergy to people of color in Virginia was discussed previously in this chapter. Mary Rawlins made her complaint to Governor Berkeley in May 1661; in March 1662 the burgesses enacted a law, "Cruelty of masters prohibited." The connection may be more than coincidental. See Hening, *Statutes*, 2:117–18.

80. Morgan, *American Slavery, American Freedom*, 215–70; Brown, *Good Wives, Nasty Wenches, and Anxious Patriarchs*, 137–86; Marcus Rediker and Peter Linebaugh, *The Many-Headed Hydra: Sailors, Slaves, Commoners, and the Hidden History of the Revolutionary Atlantic* (Boston, 2000), 135–40; "The Servants Plot of 1663," *Virginia Magazine of History and Biography* 15 (July 1907): 38–43; and J. Douglas Deal, *Race and Class in Colonial Virginia: Indians, Englishmen, and Africans on the Eastern Shore During the Seventeenth Century* (New York, 1993), 115–28.

81. Between December 1657 and November 1666, two female servants and ten male servants killed themselves; while another seven servants died from natural, although occasionally suspicious, causes. For suicides, see YCDOW 3, ff. 10, 25, 46, 67, 74, 122, 133, 135, 135 183; YCDOW 4, f. 116. For death by natural causes, see YCDOW 3, ff. 15, 25, 37, 67, 98, 135; YCDOW 4, f. 116.

82. Billings, "Law of Servants," 45–62; and Morgan, *American Slavery, American Freedom*, 311–13.

Chapter 5. Widows, Fictive Widows, and the Management of Households

1. Depositions of Dionisia Hadly and Mary Buck, York County Deeds, Orders, Wills [hereafter cited as YCDOW] 10, f. 181. Samuel Eborne, minister of Bruton Parish in York County, deposed that shortly before Thorpe died, "shee tould me that she

wanted and desired" the bulk of her estate to be given to James Whaley (deposition of Samuel Eborne, see YCDOW 10, f. 182). The inventory of Thorpe's estate amounted to four pages of goods, slaves, and livestock. No value was listed; but when she died, she was in possession of a fully stocked house and store at the main estate, two additional quarters, twenty-one slaves, and about 170 head of livestock (YCDOW 10, ff. 198–201).

2. The suit against Whaley was filed on the same day the nuncupative will was recorded. Attorney John Grice complained to the court that Whaley was illegally possessed of the estate and ordered Whaley off the land. In response, Whaley declared that the lawyer was no more entitled to the estate than the "negro" who stood by. Astonishingly, Whaley prevailed and kept the property that Thorpe had willed to him, which consisted of her main estate. Hubbard's quarter went to her heirs. See Deposition of John Grice, YCDOW 10, ff. 188, 198, 354.

3. The dispute between the two women rested upon the penalty of extra service for Elizabeth Mullins's out-of-wedlock pregnancy. Vaulx argued that Mullins should serve "according to the Act of Assembly" because the pregnancy had occurred while Mullins was still a servant. Mullins, however, claimed that since she had been freed before she delivered, there should be no penalty (YCDOW 6, f. 279). On the statute governing out-of-wedlock pregnancy, see William Waller Hening, *The Statutes at Large* (New York, 1823; reprint, Charlottesville, Va., 1969), 2:114–15. For Vaulx's note see YCDOW 6, f. 288.

4. Mary Beth Norton, *Founding Mothers and Fathers: Gendered Power and the Forming of American Society* (New York, 1996), 139 (quotation), 138–40; and Karin Wulf, *Not All Wives: Women of Colonial Philadelphia* (Ithaca, N.Y., 2000), 5.

5. Norton argues that high-ranking and fictive widows were especially at the center of conflict in early America. See *Founding Mothers and Fathers*, 140.

6. Ibid., 140, 162–64, 316, 397–99.

7. Ibid., 140.

8. Laurel Thatcher Ulrich, *Good Wives: Image and Reality in the Lives of Women in Northern New England, 1650–1750* (New York, 1980), 48–50.

9. Marylynn Salmon, *Women and the Law of Property in Early America* (Chapel Hill, N.C., 1986), 44–53.

10. Ibid., 53–56; Kathleen M. Brown, *Good Wives, Nasty Wenches, Anxious Patriarchs: Gender, Race, and Power in Colonial Virginia* (Chapel Hill, N.C., 1996), 287–91, 305–18, 335–36; Linda L. Sturtz, "'As Though I My Self Was Pr[e]sent': Virginia Women with Power of Attorney," in *The Many Legalities of Early America*, ed. Christopher L. Tomlins and Bruce Mann (Chapel Hill, N.C., 2001), 250–71.

11. Salmon, *Women and the Law of Property*, 14–18, 81–119, 144–45; Marylynn Salmon, "Women and Property in South Carolina: The Evidence from Marriage Settlements, 1730–1780," *William and Mary Quarterly*, 3d ser., 39 (October 1982): 655–61; Joan R. Gunderson and Gwen Victor Gampel, "Married Women's Legal Status in Eighteenth-Century New York and Virginia," *William and Mary Quarterly*, 3d ser., 39 (January 1982): 114–34; Linda E. Speth, "More Than Her 'Thirds': Wives and Widows in Colonial Virginia," *Women and History* 4 (Winter 1982): 5–41.

12. Jane Kamensky, *Governing the Tongue: The Politics of Speech in Early New England* (New York, 1997), 77.

13. Brown, *Good Wives, Nasty Wenches, Anxious Patriarchs*, 229.

14. Ibid., 227–36; Douglas Deal, "A Constricted World: Free Blacks on Virginia's Eastern Shore," in *Colonial Chesapeake Society*, ed. Lois Green Carr, Philip D. Morgan, and Jean B. Russo (Chapel Hill, N.C., 1988), 275–305; and Kirsten Fischer, *Suspect Relations: Sex, Race, and Resistance in Colonial North Carolina* (Ithaca, N.Y., 2002), 126–29.

15. Norton, *Founding Mothers and Fathers,* 138–40.

16. The literature on widowhood in early America is voluminous. For studies of the power of widows, see notes 4, 10, and 11. For a discussion of comparative inheritance statutes and testamentary practice over time, see Carole Shammas, Marylynn Salmon, and Michel Dahlin, *Inheritance in America: From Colonial Times to the Present* (New Brunswick, N.J., 1987). Salmon's *Women and the Law of Property* remains the definitive study of property law and women in colonial America; see especially 147–60, 168–75. Other classic studies of early American law include Richard B. Morris, *Studies in the History of American Law: With Special Reference to the Seventeenth and Eighteenth Centuries* (New York, 1958); and George L. Haskins, *Law and Authority in Early Massachusetts* (New York, 1960). For studies that focus exclusively on law and testamentary behavior in the south, see Julia Cherry Spruill, *Women's Life and Work in the Southern Colonies* (Chapel Hill, N.C., 1938; reprint, New York, 1972), 340–66; and Lois Green Carr, "Inheritance in the Colonial Chesapeake," in *Women in the Age of the American Revolution,* ed. Ronald Hoffman and Peter J. Albert (Charlottesville, Va., 1989), 155–208. Useful studies of other regions that focus on the consequences of testamentary practice include Gloria L. Main, "Widows in Rural Massachusetts on the Eve of the Revolution," 67–90; David E. Narrett, "Men's Wills and Women's Property Rights in Colonial New York," 91–133; and Carole Shammas, "Early American Women and Control Over Capital," 134–54, all in *Women in the Age of the American Revolution,* ed. Hoffman and Albert; also see Toby L. Ditz, *Property and Kinship: Inheritance in Early Connecticut, 1750–1820* (Princeton, N.J., 1986). For a useful discussion of inheritance in England, see Susan Staves, *Married Women's Separate Property in England, 1660–1833* (Cambridge, U.K., 1990). For a discussion of the usefulness of probate records in studying social structure and cultural change, see Gloria Main, "Probate Records as a Source for Early American History," *William and Mary Quarterly,* 3d ser., 32 (January 1975): 89–99.

17. Salmon, *Women and the Law of Property,* 147–60, 168–75.

18. Hening, *Statutes,* 3:371–74; Salmon, *Women and the Law of Property,* 152. Virginia sustained the policy of providing widows with real and personal property until after the Revolution, a situation that was directly related to the need to unite land with slaves in order to provide financial security in the plantation economy (156).

19. Salmon, *Women and the Law of Property,* 156. Salmon, Shammas, and Dahlin argue that Virginia's generous inheritance system encouraged the "lively marriage market" in the seventeenth-century Chesapeake. See *Inheritance in America,* 36.

20. If no children existed, a husband left his wife his whole estate; in a variety of situations between 1640 and 1710, little more than 25 percent of testators left their wives their dower only or less than their dower share. When widows had children and were named executors, overseers were typically appointed to supervise the children's' bequests. See Lorena Walsh and Lois Green Carr, "The Planter's Wife: The Experience of White Women in Seventeenth-Century Maryland," *William and Mary Quarterly* 3d ser., 34 (October 1977): 555–57.

21. $N=33$. A number ($n=10$, or 27 percent) of testators failed to name executors explicitly, but their widows were granted administration by the court.

22. $N=26$. There were only three exceptions: one widow was appointed as co-administrator, one court appointed a male administrator, and one widow relinquished administration of her estate. Toby Ditz has noted that because intestacy statutes and testamentary practice appointed widows as executors and administrators, inheritance systems display "a nonpatrilineal approach to the distribution of authority and [come] down on the side of family interests over those of outsiders." See *Property and Kinship,* 145.

23. Both groups had few or no children or indicated that they had already devised

legacies to their children. The remaining 50 percent of testators specified widowhood, life use, or reversion provisions. These figures are based on a sample of York County wills taken every five years from 1660 to 1730 ($t=55$).

24. For studies of print culture, literature, and Virginia, see David D. Hall, *Cultures of Print: Essays in the History of the Book* (Amherst, Mass., 1996), 97–150; Joan Pong Linton, *The Romance of the New World: Gender and the Literary Formations of English Colonialism* (Cambridge, U.K., 1998), 104–84; William M. Hamlin, *The Image of America in Montaigne, Spenser, and Shakespeare: Renaissance Ethnography and Literary Reflection* (New York, 1995); Jeffrey Knapp, *An Empire Nowhere: England, America, and Literature from Utopia to The Tempest* (Berkeley, Calif., 1992); and Mary C. Fuller, *Voyages in Print: English Travel to America, 1576–1624* (New York, 1995), 85–140.

25. Charles Crook, "Fortune's Uncertainty, or Youth's Unconstancy" (London, 1667), 51.

26. Ibid., 53.

27. Anonymous, *The Fortunate Transport* (London, ca. 1741–42), 33.

28. Ibid., 42

29. Ibid., 43.

30. "The Vain Prodigal Life, and Tragical Penitent Death of Thomas Hellier" (London, 1680), 10. T. H. Breen, James H. Lewis, and Keith Schlesinger have authenticated the biographical aspects of Hellier's narrative even though he names his master as "Cutbeard Williamson" and calls the plantation, improbably, "Hard Labour." See "Motive for Murder: A Servant's Life in Virginia, 1678," *William and Mary Quarterly* 40 (January 1983): 106–10, 111–18.

31. "Vain Prodigal Life," 10–12.

32. Ibid., 25, 52.

33. Marion Tinling, ed., *The Correspondence of the Three William Byrds of Westover, Virginia, 1684–1776* (Charlottesville, Va.), 1:32.

34. Ibid., 1:39.

35. Ibid., 1:35, 36.

36. Kenneth A. Lockridge pins William Byrd II's patriarchal rage on the merging of women's sexual power with their political power. See *On the Sources of Patriarchal Rage: The Commonplace Books of William Byrd and Thomas Jefferson and the Gendering of Power in the Eighteenth Century* (New York, 1992), 1–27.

37. Tinling, *The Correspondence of the Three William Byrds,* 1:43.

38. Ibid., 1:42.

39. On James Vaulx's service as a juror and justice at the York County Court, see YCDOW 4, ff. 155, 296, 301. For the commission of administration for his estate to his widow on 24 April 1678, see YCDOW 6, 35. Also see "Kenner Family," *William and Mary Quarterly,* 1st ser., 14 (October 1905): 178; and "History of York County in the Seventeenth Century," *Tyler's Quarterly Historical and Genealogical Magazine* 1 (1920): 255.

40. For dealings with creditors and attachments against the Vaulx estate, see, for example, YCDOW 6, ff. 178, 183, 189, 356, 367, 374, 385, 413, 433.

41. The servants' cases are found as follows in YCDOW 6: William Baker, f. 88; Elizabeth (Betty) Mullins, ff. 279, 288; William Stroud, f. 288; and Frank, ff. 360, 362–64.

42. Vaulx was indebted to Captain Philip Foster and Thomas Ballard, both of whom eventually won their suits against her (YCDOW 6, ff. 178, 196).

43. For Vaulx's note to Robert Cobbs, see YCDOW 6, f. 189.

44. Hening, *Statutes,* 2:395, 462. The pardon noted that servants lost their time if

they were with Bacon between 1 May and 16 January 1676–77 but that they would not be penalized with double service (2:462).

45. See YCDOW, no. 6, f. 88.

46. Hening, *Statutes,* 2:114–15.

47. The court clerk noted that Mullins was "willing" to serve "halfe a [year] penalty"; and Vaulx agreed to pay the fine of five hundred pounds of tobacco, the penalty for out-of-wedlock pregnancy for free women (YCDOW 6, f. 279).

48. Hening, *Statutes,* 2:129, 441. Third offenders faced trials as felons (2:441).

49. Vaulx's note regarding William Stroud can be found in YCDOW 6, f. 288. Her "claim" against him for hog stealing, with unspecified damages, is found in YCDOW 6, f. 279.

50. Deposition of Margaret Stapleforth, YCDOW 6, f. 362.

51. For an overview of the case, see Terri L. Snyder, "'As If There Was Not Master or Woman in the Land': Gender, Dependency, and Household Violence in Virginia, 1646–1720," in *Over the Threshold: Intimate Violence in Early America,* ed. Christine Daniels and Michael V. Kennedy (New York, 1999), 229–31.

52. Upon inventory, the total estate value was found to be twenty-eight pounds, three shillings, and five pence.

53. Deposition of Elizabeth Broster, YCDOW 8, f. 478.

54. Deposition of John Broster, YCDOW 8, f. 474.

55. Norton, *Founding Fathers and Mothers,* 140 (definition of fictive widows), 162–64 (Anne Hibbens), 174 (Anne Eaton), 397–99 (Anne Hutchinson).

56. Brown, *Good Wives, Nasty Wenches, Anxious Patriarchs,* 64.

57. YCDOW 4, f. 52.

58. YCDOW 6, ff. 77, 82.

59. YCDOW 6, f. 455.

60. In 1662, Thomas Morley's servant, John Shelton, "tooke the sticke out of his master's hand (correcting him)" and "strooke his master's son" (YCDOW 3, f. 176).

61. See, for instance, YCDOW 16, f. 80; and YCDOW 14, f. 446.

62. As married women, neither Anne Batten nor Mrs. Hyde could litigate in their own names. On the act governing unruly servants, see Hening, *Statutes,* 2:118.

63. YCDOW 6, f. 38.

64. YCDOW 6, f. 504.

65. Depositions of Mary Pell and Ann Abbott, YCDOW 8, ff. 113–14. My description combines elements from both accounts.

66. YCDOW 8, f. 104.

67. H. R. McIlwaine, ed., *Journals of the House of Burgesses, 1758–1761* (Richmond, Va., 1908), 73.

68. Brown, *Good Wives, Nasty Wenches, Anxious Patriarchs,* 235; Fischer, *Suspect Relations,* 128–29; and Deal, "A Constricted World," 303–5.

69. The original contract between Webb and Savage was either suppressed or lost. A reference to the bargain occurs in court some years later, but all of its terms benefited Savage. He had two witnesses present to verify that the original indenture existed. See Northampton County Orders, 1722–29, f. 247. Deal first pieced together the story of Jane Webb as well as other free black women on Virginia's eastern shore. See "A Constricted World," 299–302. For accounts of other free black women in colonial Virginia, see 275–305; and Brown, *Good Wives, Nasty Wenches, Anxious Patriarchs,* 227–36.

70. Northampton Orders, 1711–16, ff. 10, 255; Deal, "A Constricted World," 300.

71. Northampton Orders, 1722–29, f. 46,

72. Northampton Orders, 1722–29, f. 247.

73. Northampton Orders, 1722–29, f. 248; Deal, "A Constricted World," 302.
74. Northampton Orders, 1722–29, ff. 260, 278, 287; Deal, "A Constricted World," 302.
75. Northampton Orders, 1722–29, ff. 173, 179.
76. Deal, "A Constricted World," 303.

Conclusion

1. Jack P. Greene, ed., *The Diary of Colonel Landon Carter of Sabine Hall, 1752–1778* (Charlottesville, Va., 1965), 2:865
2. Louis B. Wright and Marion Tinling, eds., *The Secret Diary of William Byrd of Westover, 1709–1712* (Richmond, Va., 1941), 17–19, 38, 43, 48, 71, 117, 118 (quarrels with Lucy); 17, 23, 79, 84–85, 111 (slaves and servants).
3. Kenneth A. Lockridge, *The Diary, and Life, of William Byrd II of Virginia, 1674–1744* (New York, 1987), 67–68. See also Allan Kulikoff, *Tobacco and Slaves: The Development of Southern Cultures in the Chesapeake* (Chapel Hill, N.C., 1986), 180–83. For disclosures of violence in antebellum Virginia households, see Joshua D. Rothman, "To Be Freed from Thate Curs and Let at Liberty": Interracial Adultery and Divorce in Antebellum Virginia," *Virginia Magazine of History and Biography* 106 (1998): 443–81; and Thomas Buckley, S.J., ed., "'Placed in the Power of Violence': The Divorce Petition of Evelina Gregory Roane, 1824," *Virginia Magazine of History and Biography* 100 (1992): 29–78.
4. For comparative franchise statutes in the colonies, see Robert J. Dinkin, *Voting in Provincial America: A Study of Elections in the Thirteen Colonies, 1689–1776* (Westport, Conn., 1977), 30. Joan R. Gundersen suggests that the 1699 Virginia law barring women from the franchise was enacted in response to female voting. See "Independence, Citizenship, and the American Revolution," *Signs* 13 (1987–88): 64–65. Of course, free women were not the only group restricted from the franchise: free white men without property, minors, recusant convicts, enslaved and free African Virginians, and Native Americans, whether they were male or female, were similarly banned from the formal public. The original statute that specifically barred women, minors, and recusant convicts from the franchise was enacted in 1699; interestingly, it distinguished between "sole" and "covert" women and specified that neither could vote, while a second statute enacted in 1723 restricted free blacks, mulattos, and Native Americans. See William Waller Hening, *The Statutes at Large* (New York, 1823; reprint, Charlottesville, Va., 1969), 3:172, 4:133–34.
5. John G. Kolp and Terri L. Snyder, "Women and the Political Culture of Eighteenth-Century Virginia," in *The Many Legalities of Early America,* ed. Christopher Tomlins and Bruce Mann (Chapel Hill, N.C., 2001), 276–80.
6. Ibid., 282–92.
7. Cynthia A. Kierner, *Beyond the Household Women's Place in the Early South, 1700–1835* (Ithaca, N.Y., 1998), 69–101; Linda K. Kerber, "The Paradox of Women's Citizenship in the Early Republic: The Case of Martin vs. Massachusetts, 1805," *American Historical Review* 97 (April 1992): 349–78; and Karin Wulf, *Not All Wives: Women of Colonial Philadelphia* (Ithaca, N.Y., 2000), 181–210. For an analysis of women and religious culture in revolutionary America, see Susan Juster, *Disorderly Women: Sexual Politics and Evangelicalism in Revolutionary New England* (Ithaca, N.Y., 1994).
8. Kierner, *Beyond the Household,* 116–24.
9. Kierner envisions the public sphere as including not only formal politics but also informal civic and social life, business exchanges, and religion. See ibid., 2. Catherine Allgor demonstrates how women were central to the functioning of poli-

tics in Washington, D.C., during its formative age. See *Parlour Politics: In Which the Ladies of Washington Help Build a City and a Government* (Charlottesville, Va., 2000). Elizabeth R. Varon takes up the story of Virginia women's political activism in the 1830s. See *We Mean to Be Counted: White Women and Politics in Antebellum Virginia* (Chapel Hill, N.C., 1998).

10. Douglas Deal, "A Constricted World: Free Blacks on Virginia's Eastern Shore, 1680–1750," in *Colonial Chesapeake Society*, ed. Lois Green Carr, Philip D. Morgan, and Jean B. Russo (Chapel Hill, N.C., 1988), 304–5.

11. Hening, *Statutes*, 3:87.

12. A. G. Roeber, *Faithful Magistrates and Republican Lawyers: Creators of Virginia Legal Culture, 1680–1810* (Chapel Hill, N.C., 1981). Although Linda L. Sturtz argues against a declension in colonial Virginia, her work is focused on propertied women who were, in fact, commercially active in civil litigation. See *Within Her Power: Propertied Women in Colonial Virginia* (New York, 2001). For a discussion of eighteenth-century changes in New England courts, see Cornelia Hughes Dayton, *Women Before the Bar: Gender, Law, and Society in Connecticut, 1639–1789* (Chapel Hill, N.C., 1996).

13. In both the seventeenth and eighteenth centuries, Virginia's local courts handled debt, actions on the case, and trespass and assault cases; but the numbers of cases spiraled upward in the eighteenth century, as did the numbers of jury trials. See Roeber, *Faithful Magistrates*, 128.

14. Changes in executorship were linked to demographic shifts. For instance, in York County before 1700, 70 percent of York widows had sole control over their husbands' estates, 12 percent shared executorship, and only 3 percent of husbands' wills named executors other than their wives. By 1730, sole executorship was given to 62 percent of widows, while 29 percent shared executorship, and 9 percent of testators chose male executors over their wives. See Lois Green Carr, "Inheritance in the Colonial Chesapeake," in *Women in the Age of the American Revolution*, ed. Ronald Hoffman and Peter J. Albert (Charlottesville, Va., 1989), 171. A statute enacted in 1705 redefined slaves as real property *only* for purposes of inheritance; when slaves had been defined as personal property, a widow inherited them absolutely. By redefining slaves as realty, a widow's interest in slaves was reduced to life. The 1705 act effectively separated widows from outright ownership of slaves. The burgesses were specific in their terms: the legislation forbade widows or, if remarried, their husbands to remove any dower slaves or their increase out of the colony without the consent of the heir. See Hening, *Statutes*, 3:333–35. For discussions of the 1705 law, see Carole Berkin, "Clio's Daughters: Southern Colonial Women and Their Historians," in *The Devil's Lane: Sex and Race in the Early South*, ed. Catherine Clinton and Michelle Gillespie (New York, 1997), 17–18; Marylynn Salmon, *Women and the Law of Property in Early America* (Chapel Hill, N.C., 1986), 151–56; and Carole Shammas, "Early American Women and Control Over Capital," in *Women in the Age of the American Revolution*, ed. Ronald Hoffman and Peter J. Albert (Charlottesville, Va., 1989), 134–54.

15. Kathleen M. Brown, *Good Wives, Nasty Wenches, and Anxious Patriarchs: Gender, Race, and Power in Colonial Virginia* (Chapel Hill, N.C., 1996), 290.

16. Kulikoff, *Tobacco and Slaves*, 183 (quotation), 180–83 (the cases of Andrew and Mary Scott and Jane and Jeremiah Pattison).

17. Ibid., 374–75; Deborah Grey White, *Ar'n't I a Woman? Female Slaves in the Plantation South* (New York, 1985), 27–46; Brown, *Good Wives, Nasty Wenches, and Anxious Patriarchs*, 368–69; and Kierner, *Beyond the Household*, 7.

18. Kenneth A. Lockridge, *On the Sources of Patriarchal Rage: The Commonplace*

Books of William Byrd II and Thomas Jefferson and the Gendering of Power in the Eighteenth Century (New York, 1992), 70 (quotation), 75–102 (comparative discussion of Byrd and Jefferson).

19. Ibid., 86.

20. White, *Ar'n't I a Woman?* 38–39.

Index

Accomack County, 72
Adultery
  comparative colonial statutes and punishments for 70–74, 77
  defamation suits and, 77–86
  indentured suits and, 74–75
  men and, 67–71, 74–76
  popular print culture and, 67, 75–76
  slaves and, 74–75
  women and, 67–71, 74–76
African-Americans
  enslaved, 4–5, 40–41, 90–92, 94, 108–15
  free, 4–5, 114–15, 136–39
  as legal witnesses, 108–10, 113–15, 136–38
  See also Free blacks, Slaves
Aggie, Mary (slave), 17, 94–95, 112–16, 141
Allen, Susanna, 112
Anaka (slave), 75
Archer, Captain, 107

Bacon, Elizabeth Duke, 28, 34
Bacon, Nathaniel Jr., 25–26, 28–30, 33–34
Bacon's Rebellion
  causes of, 25–26
  disruption of domestic life and, 36–37
  Lady Frances Berkeley and, 25–32
  loyalist women and, 32, 36–37
  Native Americans and, 25–26, 36–37
  newswives and, 34–35
  post-Rebellion legislation, 16, 37–39, 128
  rebel men and, 33–34
  rebel women and, 32–36
  white aprons and, 37
Baker, William, 127–28
Barrow, Mary, 134–35
Bastardy. *See* Fornication; Out-of-wedlock pregnancy
Batten, Anne, 133–35
Batten, Ashaell, 133–35
Behn, Aphra, 11–15, 117, 123–24
Benefit of clergy, 114–15, 171nn. 73–76
Berkeley, Lady Frances, 16–17, 19–21
  and Bacon's Rebellion, 25–32
  and childlessness, 24–25
  defense against Bacon's complaints, 28–30
  family connections, 22–24
  insults royal commissioners, 30–32
  marriages and estate, 24
  memory of, 32
  obtains pardon for rebel, 27–28
  portrait of, 23
Berkeley, Sir William, 3, 19, 24–27, 30–32, 36–37, 58, 89–99, 101, 104, 133
Betray'd Maid, 95
Blackstone, James, 79
Blagrave, Henry, 102–3
Brabbling women
  decline of in eighteenth century, 140–44
  defined, 2–3
  geography of, 69, 82–85
  laws and, 2, 21, 30, 37–38, 41–43
  misrule and, 22–36, 39–44, 80–81, 84–86, 123–26
  power of, 5–6, 15–18, 68–70, 85–88, 92–95, 103–4, 107–8, 135–36
  See also Bacon's Rebellion; Fictive widows; Free blacks; Indentured servants; Slaves; Tobacco Cutting Riots; Widows
Braine, Sarah Stegge Grendon, 126
Brookley, Joseph, 134
Broster, John and Elizabeth, 131–32
Burt, Elizabeth, 45–46, 54–62, 62–66
Burt, Richard, 55–56
Butts, Anthony, 131, 138–39
Butts, Mary, 17, 131–33
Byrd, Lucy Parke, 140–41
Byrd, William I, 24, 28–29, 126, 133
Byrd, William II, 5, 11, 42–43, 48, 62–63, 74–75, 140, 143–44

Carter, Landon, 140, 143
Chisman, Lydia, 20–21, 35–36
Clarke, Edward, 101–2
Clopton, William and Anne, 105–8, 118
Cockacoeske, 20–21, 36–37
Cole, Colonel William, 109–110
Cole, Elizabeth, 17, 92–95, 104–8, 115–16
Collins, Ann, 1–2, 46–47, 49–52, 62–66, 141
Cooke, Ebenezer, 67, 75
Cornute, Cornelius, 73–74
Cornute v. *Pond,* 74–75
Correcting sticks, 97, 131–35
Cotton, Ann, 33
Country Justice, 97
Coverture, 16–17, 38, 59, 81, 119–20
Crompton, Betty and Charles, 108–12, 118, 121–23
Croshaw, Joseph, 99
Cross-dressing, 14–15, 85–86, 148n. 37
Cunningham, David, 112

Dalton, Michael, 97
Defamation, 59–61, 70, 77–86
See also Eaton v. *Burt; Hide* v. *Delony; Hill* v. *Slate*
Defoe, Daniel, 11–15
Delony, Joanna, 17, 68–71, 76, 81–86
Delony, Lewis, 76, 81–86
Dennett, John, 105–8
Deputy husbands, 119–22, 133
Domestic patriarchy, 5–6, 15–18, 68–70, 75–76, 79–80, 87–89, 93–94, 98, 142
Domestic relations, 21, 36–37, 69–70, 76–78
Drummond, Sarah, 20–21, 34–36, 43
Drummond, William, 35–36
Dunston, Thomas, 78

Eaton, Anne, 133
Eaton, John, 56–59, 60–62
Eaton v. *Burt,* 55–61
Executive Council of Virginia, 114

Feme covert, 38, 119–20
Feme sole, 119–20
Ferrar, Virginia, 19–20
Fictive widows, 119–22, 124–26, 133–39
See also Batten, Anne; Hyde, Mrs.; Webb, Jane; Widows; Williams, Mrs.
Fornication, 48–49, 52–54, 128–29
See also Out-of-wedlock pregnancy
The Fortunate Transport, 64, 67, 96, 124
engraving, 125
Fortune's Uncertainty, or Youth's Inconstancy, 124
Frank (slave), 128–31
Free blacks, 55, 120–21, 136–38, 142–43
See also Jane Webb

Gender relations. *See* Domestic patriarchy
General Court of Virginia, 54–55, 91, 98, 114
Godwin, Morgan, 95–96
Gooch, William, 94, 112–15
Gossip and reputations, 59, 69–70, 79–80, 82–88
Grand jury. *See* Legal actors
Grendon, Sarah Stegge. *See* Braine, Sarah Stegg Grendon

Hall, John, 109
Hansford, Charles, 54–59
Harmanson, Colonel George, 137
Hawthorne, Mary, 101–2
Haycock, Polly, 96, 124
Hellier, Thomas, 124–25
Hibbins, Ann, 133
Hide, Jane, 81–86
Hide, Robert, 81–86
Hide v. *Delony,* 70, 81–86
Hill, Andrew, 134
Hill, James, 77–81
Hill, James, Sr., 79–80
Hill v. *Slate,* 70, 77–81
Hogstealing, 129
Holloway v. *Butts,* 132–33
Holloway, James, 131–33, 139
Horsington, Constable and Dorothy, 103
Hutchinson, Anne, 133
Hyde, Mrs. and Robert, 134–35

Indentured servants
disorderly speech and, 106–8
laws governing, 89–91, 96–98, 135
legal strategies of, 92–94
petitions by, 90, 97, 104–5
physical abuse of, 91–94
print culture and, 95–96
resistance of, 4, 62–63, 92
rights of, 90, 96–98
See also Cole, Elizabeth; Collins, Ann; Mullins, Elizabeth; Rawlins, Mary
Interracial marriage, 43, 53, 87

Jefferson, Thomas, 144
Jeffreys, Sir Herbert, 24
Jones, Richard, 72
Jones, Robert, 27–28

Key, Elizabeth, 90–91

Lather, Andres, 100–101, 103–4
Left (slave), 136–37
Legal actors
  defined, 6, 146n. 13
  grand juries, 63–66
  grand jurors, 56, 78–79
  justices, 46, 56–58, 99–101, 105–10, 118–19, 128–29, 137–38, 140
  powers of, 6–7, 63–65
  sexual coercion and, 63–66
  widows and, 117–19, 127–30
Legal evidence, 7, 72–73, 83
  slaves and, 109–10, 114–15
Legal fraternity. *See* Legal actors
Ludwell, Philip, 24, 33–34, 36

Marot, John, 113
Maryland Muse, The, 67, 75
Masters
  servants and, 89–91, 94–95, 97–98, 107, 111–12, 120–32, 135
  slaves and, 48, 54, 63–64, 75, 89–91, 94–95, 112–13
  women as, 93–94, 107, 111–12, 118–21, 131–36
  See also Clopton, Anne; Crompton, Betty; Russell, Bridget; Vaulx, Elisheba
Mastery, 3, 5
  compromised by women, 10, 16–18, 70–72, 75–76, 87–88, 94–95, 98, 104–5
  gender and mastery, 53–54, 75–76, 81, 93–96, 99–100, 104
  sexual coercion and, 47–49
  sexual consent and, 49–52
Microhistory, advantages of, 7–8, 146n. 17
Middleton, Jane, 101
Middleton, Thomas, 101–2
Moll Flanders, 11–15, 18, 48, 67
Moryson, Francis, 27–28
Mullins, Elizabeth [Betty], 118–19, 127–29
Munford, Robert, 143

Native Americans
  and Bacon's Rebellion, 25–26, 36–37
  print culture representations of, 15
  women as victims of sexual coercion, 48
  See also Cockacoeske; Sermernia
Negro and Indians Advocate, 95–96
Nelly (slave), 140
Northampton County, 136–38

Out-of-wedlock pregnancy, 52–54, 67, 128–29
  interracial, 43, 52–53, 67, 87
  punishments for, 51–53
  strategies for avoiding punishments, 53–54
  See also Fornication
Oyer and Terminer Courts, 6, 54–55, 113–14

Pamunkey Indians, 36–37
Parke, Daniel, 99
Parman, William, 101–2
Peeters, Mary, 56, 58
Pierce, Robert, 1, 49–52
Pond, Stephen, 73–74
Prichard, Robert, 134
Print culture and gender, 10–16, 18, 44, 48, 64, 67, 75–76, 89, 95–96, 117, 123–26, 164n. 38

Ranters, 14
Rape
  comparative colonial statutes on, 54–55
  legal actors and, 63–66
  print culture and, 164n. 38
  racial status and, 48–49, 54–55, 61–62
  See also Burt, Elizabeth
Rawlins, Mary, 92–95, 98–104, 108, 115–16, 120
Roxanna, 14
Royal commissioners, 30–33
Russell, Bridgett and John, 99–104, 108, 118, 120–21

Sarah the Mulatto, 92–95, 108–12, 115–16
Savage, Thomas, 136–37
Sermernia, 15
Sexual coercion
  controlling definitions of, 47–51, 56–58
  and legal actors, 56–58, 63–66
  legal definitions of, 47–49
  by masters and free men, 46
  Native American women and, 48

Sexual coercion (*continued*)
of slave women, 46–48, 62–63
underreporting of, 46
women's narratives of, 45–47, 62–66
See also Burt, Elizabeth; Collins, Ann
Shurlin, Jane, 134
Slate, Elizabeth, 68–71, 76–81
Slate, Elizabeth (daughter), 80
Slate, Rachel, 80
Slate, Robert, 76–81
Slaves
avenues to freedom, 90–91
laws and, 43, 67, 87–88, 91–92, 109, 113–15, 122, 142
legal strategies of, 92–93, 112–15
as legal witnesses, 109–10, 114–15
mythology of, 5, 144
physical abuse of, 91–92, 111–12
political insurgency and, 40
print culture and, 95–96
resistance of, 4, 42–43, 46, 62–63, 92, 112–15, 143
sexual abuse of, 46–48, 62–63
See also Aggie, Mary; Anaka; Frank; Key, Elizabeth; Left; Nelly; Sarah the Mulatto
Spencer, Secretary Nicholas, 33–34, 39–40, 106
Storkey, Elizabeth, 72
Stroud, William, 127, 129
Sullivant, Anne Marot, 112–13
Sullivant, Timothy, 112

Thistlewood, Thomas, 75
Thomas, Elinor, 101–2
Thorpe, Katherine, 117, 138
Tobacco Cutting Riots
course of, 39–40
women and, 39–42, 106
Trappan'd Maiden, The, 89, 95

Vain Prodigal Life and Tragical Penitent Death of Thomas Hellier, The, 124–26
Vaulx, Elizabeth, 17, 118–21, 127–31
Virginia
demographic features, 3–4
labor practices, 3–4, 39–42
political instabilities, 4–5, 25–37, 39–42

Wade, William, 135–36, 139
Webb, Dinah, 137
Webb, Jane, 17, 136–39, 141
Webb, son to Jane and Left, 137–38
Webb, Steven Saunders, 34
West, Mary, 72
White aprons, 37, 45
Widows
class and, 131–33
comparative statutes on, 122–23
household authority and, 117–12, 131–33
local legal fraternity and, 117–19, 127–30
power of, 126–27, 138–39
print culture and, 123–27
status of, 119, 122–23, 127
testamentary practices and, 122–23
violence and, 131–33
See also Fictive widows
Widow Ranter, The, 11–15, 67, 117, 123–24
Bacon's Rebellion and, 15
British American women in, 11–14, 123–24
Native American women in, 15
Williams, John and Mrs., 135–36, 139
Williams v. *Wade*, 135–36
Williamsburg, 112
Williamson, Cutbeard and Mrs., 125–26
Women
law and, 2, 21, 30, 37–38, 41–44, 91–92, 113–15, 122, 142
misrule and, 22–36, 39–42, 75–76, 80–81, 84–86, 123–26
political action and, 26–37, 39–42, 43–44
public sphere and, 141–44
See also Deputy husbands; Free blacks; Fictive widows; Indentured servants; Slaves; Widows
Wright, James, 78–79

York County
court, 8–10, 46–47, 49, 53, 55–61, 64–65, 72–74, 78, 81, 91–93, 97–98, 105–9, 120, 123
history of, 8–10
rise of slavery in, 9–10
York County Records Project, 146n. 18
See also Legal actors